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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

22 Cr. 325 (JPC)

5 EDDY ALEXANDRE,

6 Defendant.

7 -----x

8 July 18, 2023

9 2:00 p.m.

10 Before:

11 HON. JOHN P. CRONAN,

12 U.S. District Judge

13
14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 BY: NICHOLAS FOLLY

JARED P. LENOW

Assistant United States Attorneys

18 CHIESA SHAHINIAN & GIAN TOMASI PC

19 Attorneys for Defendant

20 BY: EMIL J. BOVE, III

BRITTANY A. MANNA

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1 (Case called)

2 THE DEPUTY CLERK: Can counsel, starting with the
3 government, please state your name for the record.

4 MR. FOLLY: Good afternoon, your Honor. Nicholas
5 Folly and Jared Lenow for the government.

6 THE COURT: Good afternoon, Mr. Folly, and Mr. Lenow.

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1 MR. BOVE: Good afternoon, your Honor. Emil Bove for
2 Mr. Alexandre, who is seated to my right, and I also have with
3 me Brittany Manna an associate at my firm, and Nicole Verdi who
4 is a summer associate, who will join us, with the Court's
5 permission.

6 THE COURT: Verdi?

7 MR. BOVE: Verdi.

8 THE COURT: Good afternoon, Ms. Manna, Ms. Verdi, and
9 Mr. Alexandre.

10 Let me just make sure I am pronouncing it correctly,
11 it is Alexandre not Alexandre; is that right?

12 THE DEFENDANT: Alexandre.

13 THE COURT: Alexandre, great.

14 So, we are here this afternoon for Mr. Eddy
15 Alexandre's sentencing. Mr. Alexandre pled guilty before me on
16 February 10, 2023, pursuant to a plea agreement with the United
17 States Attorney's office. He pled guilty to Count One of the
18 indictment. That count charged him, from the period of
19 September 2021 through May 2022, in engaging in commodities
20 fraud in violation of Title 7 U.S.C. Sections 91 and 13(a)(5),
21 Title 17, Code of Federal Regulations Section 180.1, and Title
22 18 U.S.C. Section 2.

23 I will start by running through the materials I have
24 received and reviewed in preparation for today's sentencing. I
25 will ask everyone's patience as there were quite a few

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1 materials.

2 First, I have reviewed the presentence investigation
3 report dated May 25, 2023. Appendix A to the presentence
4 investigation report is a document with information, that
5 document contains data for the defendant's final offense level
6 of 37. So, that document has data for defendants who had a
7 final offense level of 37 pursuant to Section 2B1.1 and
8 Criminal History Category I, which are the offense level and
9 Criminal History Category that probation arrives at for the
10 defendant. I have also reviewed the addendum to the
11 presentence investigation report which addresses various
12 objections to the presentence report raised by the defense. I
13 have reviewed Mr. Alexandre's lead sentencing submission dated
14 July 5, 2023, that is at Docket no. 86. This includes a
15 45-page brief from Mr. Bove and approximately 1,100 pages of
16 attached documents. Those attachments start with a letter from
17 Mr. Alexandre himself and is followed by many letters in his
18 support including from his wife, his mother, family members,
19 and about 500 other letters and e-mails from people who knew
20 the defendant in Haiti or met him in the United States
21 including members of his church, or as well as a large number
22 of EminiFX investors. And I suspect a large number of the
23 authors of those letters may be in this courtroom and in the
24 overflow courtroom today and I do thank you for your letters, I
25 have read all of them in advance of today's proceeding. I know

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1 that two correspondences appear to be written in French; an
2 e-mail from Marie Thomas and an e-mail from Jemps Meigan. I do
3 not have translations of those e-mails but if either of those
4 individuals wish to speak today, and ideally if necessary that
5 their statements be translated, I will be happy to hear from
6 them. I will also address anyone else who wants to speak in a
7 few moments.

8 There were several other materials attached to the
9 defense submission. There is an article on Haitian political
10 history in the 1980s, a March 2020 e-mail thread between
11 Mr. Alexandre and the CFTC regarding Mr. Alexandre's creation
12 of the CFTC portal account, an e-mail thread from May 2022
13 concerning defendant's employment of Robert Xiong and Robert
14 Perelman; July 28, 2022 and September 16, 2022; letters from
15 the government as well as summaries of witness interviews, a
16 fiscal year 2022 statistical information packet from the
17 Sentencing Commission, three status reports from the receiver
18 in the CFTC civil lawsuit against Mr. Alexandre pending before
19 Judge Caproni; those reports are dated May 15, 2023; February
20 15, 2023; and October 12, 2022; there is a May 2022 e-mail
21 thread between the defendant and a Jeffrey Perelman, and a
22 spreadsheet purporting to show EminiFX employees.

23 The publicly-filed version of the defense submission
24 contains redactions of certain personal information of the
25 authors of some of the letters and other limited redactions in

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1 the attachments and I reviewed those.

2 I also have reviewed the government's lead sentencing
3 submission of July 12, 2023, that is at Docket no. 88, that
4 submission also includes several exhibits. Attached are
5 recordings of investor meetings on May 5, 2022 and April 2,
6 2022; exchanges between an investor and an EminiFX customer
7 service agent regarding the affected investors' deposits, an
8 EminiFX PowerPoint presentation, a sealed FBI report of a
9 victim interview, a sealed e-mail exchange and FBI report
10 regarding a house purchase and letters from victims. I believe
11 there were about five letters from victims attached. Those
12 victim letters were originally filed under seal but now have
13 been filed on the public docket with the sender's personal
14 information redacted. And I have reviewed the redacted as well
15 as unredacted or sealed versions of those materials as well.

16 I also have received a submission from the parties
17 that follow the government's submission. I received two
18 letters on July 13, 2023 from Mr. Bove; the one at Docket 89
19 concerned the sealed and restricted treatment of certain
20 attachments to the government's submission and the one at
21 Docket 90 concerned the government's failure to previously
22 produce, whether in discovery or otherwise, Exhibit B to the
23 government's submission which was the recording of the April
24 28, 2022 investor meeting. And I have reviewed the exhibits
25 attached to that letter at Docket no. 90 as well which involve

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1 the various exchanges between the government and Mr. Bove
2 regarding discovery.

3 I also reviewed the government's July 13th, 2023
4 response regarding his production of a video of the April 28,
5 2022 investor meeting which is at Docket no. 93. I directed
6 the government to file a supplemental declaration on that issue
7 which the government submitted to me yesterday and filed
8 earlier today.

9 I have also reviewed the government's response
10 regarding the sealing of certain materials. The government
11 submitted that response on July 14th, and this letter also
12 attached three more exhibits which I have reviewed. Those
13 exhibits are notes from an interview of a purported victim, a
14 summary of a recording of the defendant speaking to various
15 victims, and a report of an FBI interview of the victim who
16 provided that recording. And I have reviewed the defendant's
17 reply on July 15th.

18 As the docket reflects, after reviewing those
19 materials and the documents themselves, I found yesterday that
20 sealing of Exhibits N through P, and F through H, of the
21 government's submission, was appropriate.

22 Now, I have also reviewed a July 13 letter from
23 Mr. Bove filed under seal concerning a request to strike
24 Exhibit J to the government's sentencing submission. That
25 letter attached one exhibit also filed under seal which was a

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1 May 26, 2023 e-mail. Given my ruling that Exhibit J should be
2 unsealed, I will also order that Mr. Bove's letter of July 13
3 on this issue to be unsealed and I will ask you, Mr. Bove, to
4 file that on the docket, because the letter discusses a
5 witness, I authorize redactions of any references to the
6 witness' name or other personally identifying information in
7 that letter and the e-mail. Also, I have reviewed the
8 government's response to that letter which the government filed
9 on July 17.

10 Then, most recently last night, I received a sealed
11 letter from the government concerning information purportedly
12 from another investor including notes pertaining to that
13 person's information. In addition, over the past few weeks I
14 have received in my chambers e-mail correspondences from a
15 number of purported victims of this offense. I have provided
16 those to the parties and I have posted them on the docket with
17 redactions to the names of the senders and any other personally
18 identifying information and those are posted at Docket no. 98,
19 and just not too long before this proceeding started,
20 Docket no. 103, and in fact I received some of those e-mails
21 earlier today.

22 So I know that is a long list, let me just make sure
23 the parties have received and reviewed all of those
24 submissions.

25 MR. FOLLY: Yes, your Honor; the government has.

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1 MR. BOVE: Yes, Judge.

2 THE COURT: Is there anything in connection with
3 today's sentencing that I did not mention but I should have
4 reviewed?

5 MR. FOLLY: No, your Honor.

6 MR. BOVE: No.

7 THE COURT: And aside from issues that I have already
8 addressed, what are the parties' views as to whether the
9 redactions of the parties' submissions should remain in place?

10 MR. FOLLY: Your Honor, for the reasons we have set
11 forth previously, the government's position is they should
12 remain in place.

13 THE COURT: Mr. Bove?

14 MR. BOVE: We agree, Judge. Thank you.

15 THE COURT: So I have also reviewed these redactions
16 and agreed that what remains are appropriate redactions that
17 are narrowly tailored and I will allow them to remain in place.

18 Mr. Folly, has the government complied with its
19 obligations to victims under federal law?

20 MR. FOLLY: Yes, your Honor; we have.

21 THE COURT: Do you expect any victims who wish to
22 speak in court today?

23 MR. FOLLY: No victims have indicated that they intend
24 to speak today.

25 THE COURT: At the appropriate time I will confirm

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1 whether any victims wish to be heard today. Given that we have
2 a few overflow courtrooms, there is a possibility that a victim
3 who wishes to speak is not in this courtroom, so any victims
4 who may be observing or listening in to the proceeding in
5 another courtroom and wishes to speak, I will invite you to
6 come to courtroom 12D where we are and let one of the security
7 officers in the courtroom know. Tell the officer your name,
8 that you wish to be heard, and I will arrange for you to speak
9 at the appropriate time. And also, as I mentioned earlier, I
10 received e-mails in the defense submission from two individuals
11 that appear to be written in French, Ms. Thomas and Jamps
12 Maigan. If either of those individuals wish to speak they are
13 welcome to do so. Since I am not fluent in French I do not
14 know what they wrote in those letters.

15 I want to go back to Mr. Bove. As I mentioned when I
16 ran through the materials I reviewed, one of the issues you
17 raised was the government's failure to produce in discovery the
18 videos of the April 28, 2022 investor meeting. Now this does
19 seem like a relatively significant piece of evidence, or at
20 least an important meeting that occurred given representations
21 that were made to investors at that meeting including as to the
22 robo-advisory assistant. As I will address shortly, my
23 inclination is to consider Exhibit B today in arriving at
24 Mr. Alexandre's sentence. I want to confirm that the defense
25 does not request any adjournment to further consider or

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1 evaluate that video or the videos.

2 MR. BOVE: That's right, Judge; we are not seeking an
3 adjournment.

4 THE COURT: Mr. Folly, I believe I reviewed your
5 declaration. Are you able to confirm that to the best of your
6 knowledge the government has otherwise complied with its
7 discovery obligations in this case?

8 MR. FOLLY: Yes, your Honor; we confirm that.

9 THE COURT: Now, I also mentioned when I ran through
10 everything that I received a letter last night from the
11 government which was submitted under seal. And I know given
12 that it is under seal we need to be careful as to what we say
13 about it. Mr. Bove, do you wish to be heard on whether that
14 letter should be considered today?

15 MR. BOVE: We have no objection to it being
16 considered. We do not dispute its contents and would
17 appreciate an opportunity, at the appropriate time, to be heard
18 at side bar in response.

19 THE COURT: As to one other preliminary matter, I have
20 considered the defense's application that I strike Exhibit J of
21 the government's submission. I will deny that application.
22 The information in that exhibit which comes from a lawyer seems
23 appropriate for me to at least consider. The person, for
24 example, claims that a victim of the defendant's scheme is now
25 unable to pay the mortgage on her home which is in foreclosure

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1 and expresses the view of others as to the defendant's conduct.
2 Now, with that said, the weight these statements should be
3 afforded is a different matter. The defense has provided
4 evidence suggesting that this witness is a disbarred attorney
5 who has engaged in recruiting victims of EminiFX to join in a
6 class action lawsuit against the defendant which the defendant
7 contends would be in violation of Judge Caproni's
8 anti-litigation injunction in the CFTC civil action. So while
9 I will consider Exhibit J and not strike it, I will afford it
10 weight as I see appropriate in light of the information
11 provided by defense and arguments I hear today.

12 Let me turn to the presentence investigation report.
13 Mr. Bove, have you read the presentence investigation report?

14 MR. BOVE: Yes, Judge.

15 THE COURT: Have you discussed it with your client?

16 MR. BOVE: I have.

17 THE COURT: Mr. Alexandre, have you also read the
18 presentence investigation report?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Have you discussed it with your attorney?

21 THE DEFENDANT: Yes.

22 THE COURT: Have you had enough time and opportunity
23 to review the report?

24 THE DEFENDANT: Yes.

25 THE COURT: And discuss it with your attorney?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Have you been able to go over with
3 Mr. Bove any errors that you saw in the report?

4 THE DEFENDANT: We went over it multiple times.

5 THE COURT: Also, have you been able to have enough
6 time to discuss with Mr. Bove anything you would like him to
7 raise with me today at sentencing?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Mr. Folly, has the government also
10 reviewed the presentence investigation report?

11 MR. FOLLY: Yes, your Honor.

12 THE COURT: Let's turn to the objections. Before I go
13 through particular objections that appear to remain, let me ask
14 counsel as a more global matter whether either party feels
15 there is a need for an evidentiary hearing on any of the
16 remaining objections.

17 Does the government have a view?

18 MR. FOLLY: Your Honor, the government does not
19 believe an evidentiary hearing is necessary at this time.

20 THE COURT: Mr. Bove?

21 MR. BOVE: We don't think that one is necessary with
22 respect to the live issues in the PSR. There are other issues
23 today that I think are going to come up where there will be
24 more of a discussion.

25 THE COURT: With respect to the live issues in the

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1 PSR, one that I wanted to ask about involves this
2 robo-assistant, this robo-advisor assistant. I wanted to get a
3 sense of how big a disagreement there is in the parties' view
4 as to this technology. It would seem to me that there is
5 significant difference between a defendant who may have just
6 completely made up the possibility and existence of this
7 technology versus someone who had it in development but it
8 wasn't quite ready and operational.

9 Is it the government's view that the entire concept of
10 the robo-advisor assistant was made up?

11 MR. FOLLY: Your Honor, it is the government's view
12 that the robo-assisted trading technology did not exist. We
13 have seen no evidence during the course of the investigation
14 that it existed in any form. The defendant seems to
15 acknowledge that even himself, in his own letter; he says the
16 artificial intelligence part that would take over trading
17 functions on the Forex trading desk were "still missing."

18 That's the government's position.

19 THE COURT: Mr. Bove?

20 MR. BOVE: This is not a place where we want to get
21 bogged down in semantics, Judge, but I think our point here is
22 that Mr. Alexandre allocuted to the absence of a specific part
23 of the technology that was advertised to be associated with
24 these accounts. We concede that, we accept responsibility for
25 it, he has expressed remorse for it already, and he will do

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1 that again today.

2 What we are mainly trying to protect against in the
3 record is the suggestion just that there were no accounts or
4 that nothing went in to them. There are other features of the
5 accounts in EminiFX that did exist. There was briefing in the
6 pretrial motions about the API interface which made point
7 payments and the servers at EminiFX, so this is -- I think
8 realistically what the record supports is this is someplace in
9 the middle. There are sentences that say categorically there
10 was no such account. I don't think that is accurate and I
11 think your Honor appreciates the difference and modified the
12 PSR to reflect it. There was plenty of things, features of
13 these accounts that did exist and there was also -- and I think
14 we will talk about this more based on the exhibits in the
15 submissions -- plenty of things in progress that reflects on
16 Eddy's intent moving forward with the accounts.

17 MR. FOLLY: Your Honor, if I can be heard briefly in
18 response to that?

19 THE COURT: Yes.

20 MR. FOLLY: Your Honor, I'm not sure specifically what
21 accounts or features of the accounts are being referred to but
22 your Honor was inquiring specifically about what the defendant
23 advertised as his, quote unquote, core product, he called it a
24 robo-assisted advisory account, he referred to it as RA3 and,
25 your Honor, specifically investors asked him how he was able to

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1 earn so much money for them and his response to that question
2 is that he had his secret technology that was enabling him to
3 earn those returns. Your Honor, the government's position is
4 that that technology did not exist, there was no trading
5 technology that enabled the defendant to earn outsized returns.
6 He falsely represented that repeatedly to investors both that
7 he had the technology and that it was actually earning these
8 returns.

9 THE COURT: So when we get to those parts of the
10 presentence report my inclination was to have language that
11 essentially said that robo-advisor assisted account, or RA3,
12 was not operational or functional at the time that the
13 representations were made to potential investors.

14 Mr. Bove, is there any disagreement with that
15 characterization? Again it was not operational or functional
16 at the time.

17 MR. BOVE: Judge, I think that a specific reference to
18 the absence of the AI technology would most likely track our
19 allocution in this case but, generally speaking, yes, we agree
20 that's accurate.

21 THE COURT: Mr. Folly, what is the government's view
22 on that characterization in the presentence report?

23 MR. FOLLY: Your Honor, can you read it back again?

24 THE COURT: We can do it again when we get to the
25 specific paragraphs but I think it may come up a couple of

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1 times but essentially would say something along the lines of,
2 in reality, EminiFX did not have an operational or fully
3 functioning robo-advisor assisted account at the time that the
4 representations were made to investors.

5 MR. FOLLY: Your Honor, the only phrase we would take
6 issue with is the use of the phrase "fully functional" because
7 we have no evidence that it was functional in any way, shape or
8 form, insofar as he represented to investors that it was being
9 used to facilitate the trading and to achieve these outsized
10 returns. There is no evidence that that was happening.

11 THE COURT: OK.

12 MR. FOLLY: So we would request that it be not fully
13 functional but that it was not functional; it was not in use
14 and it was not functional.

15 THE COURT: Yes, don't we take it up when we get to
16 that paragraph. I think the first objection that still remains
17 from the defense is paragraphs 8 and 9; is that right,
18 Mr. Bove?

19 MR. BOVE: Yes, Judge.

20 THE COURT: These paragraphs concerned the defendant's
21 adjustment and conduct while on pretrial supervision. There
22 are reports that there were some instances of non-compliance
23 with home detention including some unauthorized stops in late
24 2022. None of these issues were reported to me by pretrial
25 services either for me to consider as a basis for bail

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1 modification or for bail revocation for that matter, or even
2 just brought to my awareness. One of the points the defense
3 makes is that the defendant was never able to challenge these
4 accusations. Mr. Bove, my question is regardless of whether
5 these purported violations were brought to my attention, your
6 response to probation says that the issues involved little more
7 than good faith misunderstanding between Mr. Alexandre,
8 counsel, and EDNY pretrial services. Is there anything in
9 paragraphs 8 and 9 that is factually incorrect or are you
10 concerned with how it is characterized?

11 MR. BOVE: I guess it is the latter, Judge. I don't
12 think any of the things referenced in these paragraphs are
13 fairly characterized as non-compliance in the context of the
14 supervision relationship and our main point here is that my
15 presumption, personally from throughout the supervision period,
16 was that pretrial services was monitoring Mr. Alexandre by GPS
17 in real-time. There were times when we made applications to
18 the Court to reduce restrictions on his travel including for
19 employment, and as Eddy started on that process he started with
20 a job, he did certain things that to my understanding,
21 including things, Judge, like stopping for lunch while working,
22 that to my understanding pretrial services was aware of in
23 real-time and had no issue with. So, when they brought it --
24 they changed the technology around December of 2022 and when
25 they brought it to my attention that they viewed these things

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1 as non-compliance I said that wasn't our understanding. We
2 talked through some of the facts. To your Honor's point, I
3 think there is -- these things weren't brought to the Court's
4 attention so that a hearing could be sought. I also wasn't in
5 an adversarial posture with the officer at the time about these
6 things, I didn't ask for proof or evidence and he now views it
7 as significant problems in the PSR that are going to travel
8 with Mr. Alexandre in this document suggesting that he is not
9 compliant with supervision and I just don't think that is the
10 case and I don't think that when you look at the way
11 supervision played out that that is what happened here and that
12 is why we are asking that these be struck.

13 THE COURT: Does the government have a view?

14 MR. FOLLY: No, your Honor. We don't have any
15 additional information other than what has been offered in
16 those paragraphs.

17 THE COURT: I will make a couple of changes to
18 paragraphs 8 and 9. For paragraph 8 -- and I will indicate
19 where the new language before the first and second sentence
20 is -- it will now read: We communicated with the defendant's
21 supervising pretrial services officer in the Eastern District
22 of New York who related although no bail violations had been
23 submitted to the Court, that pretrial services believes that
24 the defendant had instances of non-compliance with regard to
25 his home detention condition. It was reported that the -- this

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1 is also new -- purported non-compliance began in August 2020
2 but became increasingly apparent in October 2022. And then, at
3 the conclusion of paragraph 9, I will add the following
4 language so there is no possible confusion. That language will
5 read: Alexandre maintains that these instances of purported
6 non-compliance were the result of good faith misunderstandings
7 between him, his attorney, and the pretrial services officer,
8 and some of them occurred during a period when Alexandre and
9 the family were displaced from their rental home following a
10 fire. None of these issues of non-compliance were brought to
11 the Court's attention, nor did the Court make any finding of
12 non-compliance. The Court never held a hearing at which
13 Alexandre had the opportunity to contest them or otherwise
14 explain any misunderstanding.

15 Do you want to be heard any further on that?

16 MR. BOVE: I would ask that we also add that
17 Mr. Alexandre disputes that they were in fact instances of
18 non-compliance.

19 THE COURT: I think that's fair to add.

20 MR. BOVE: I have not seen pretrial services behave
21 like this, Judge, and it will necessarily impact the way the
22 defense bar works with them going forward when you have
23 informal conversations like this that they don't feel rise to
24 the level of reporting to your Honor, and then you find them as
25 a surprise in the draft PSR that they basically transcribed

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1 their version of a conversation. It just puts everyone in a
2 difficult position.

3 THE COURT: Well, I will add the sentence that
4 Alexandre does not view these instances as non-compliant.

5 Now we go to paragraphs 12 and 13. These paragraphs
6 provide an overview of the criminal scheme. Mr. Bove, it seems
7 to me the primary objection here is to the supposed
8 argumentative nature of these two paragraphs, and in particular
9 language that the defendant did not invest a substantial
10 portion of the funds. Is that accurate?

11 MR. BOVE: So for paragraph 12, Judge, I think there
12 are four sentences that were at issue in our submission, the
13 last four beginning Alexandre offered his investors... through
14 the end of the paragraph. We withdraw our objection to the
15 final two sentences, and in particular -- it is relatively
16 early in the proceeding -- I want to be clear that Eddy has
17 acknowledged in Exhibit A, his letter, that these ROI figures
18 that he provided to investors were not accurate reflections of
19 the investment performance of the funds. I think that bears a
20 lot on this proceeding but we are not going to be disputing
21 things that relate to that 5 to 9 percent issue in the PSR.

22 With respect to the remaining two sentences, the two
23 above that, the issue is that I don't think that this PSR
24 requires a summary paragraph, I don't think it is necessary for
25 the probation officer to just copy the complaint in the PSR

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1 and, in particular, in these two sentences I'm not sure where
2 the quotation "guaranteed" is used. I'm not sure where that
3 came from. I didn't have an opportunity to review that video
4 and it sort of parallels the situation that happened where we
5 got a video a little bit later. We should have an opportunity,
6 I submit, to review the evidence that underlies these positions
7 in the PSR and contest them or not. When it is this vague --
8 and this is going to come up in other of our objections -- it
9 makes that impossible and so the quote "guaranteed" is a
10 problem in that way.

11 I guess the next sentence also touches on this 5
12 percent issue that we are not contesting so it is really just
13 that.

14 THE COURT: Mr. Folly, the word "guaranteed"
15 especially in quotes, where is that coming from?

16 MR. FOLLY: Your Honor, I don't know if there is a
17 specific quote that is being referred to. I think it is
18 accurate to say, to use the word "guaranteed." I think it
19 would be equally accurate to use the word "promise," we have no
20 objection to modifying it or revising it to say that he
21 promised high investment returns, if that would solve the
22 dispute.

23 THE COURT: Mr. Bove, it does seem accurate to me.

24 MR. BOVE: That's fine. Thank you.

25 THE COURT: So that sentence will be changed to

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1 Alexandre promised his investors high investment returns using
2 new technology, and it will continue as written.

3 Are there any other remaining objections to paragraph
4 12 and 13?

5 MR. BOVE: No, Judge. Thank you.

6 THE COURT: With respect to the next possible
7 objection, I believe it will be paragraph 15 of their -- what I
8 had proposed earlier was that last sentence being changed to:
9 As noted, RA3 did not exist -- changed from: As noted, RA3 did
10 not exist, to: As noted, RA3 was not in fact operational or
11 functional at the time these representations were being made to
12 potential investors, although it may be fine just to leave it
13 as is.

14 Do the parties have a view on that?

15 MR. FOLLY: Your Honor, we think it is accurate as it
16 is and that the revision that your Honor has proposed, we don't
17 have an objection to that.

18 THE COURT: Mr. Bove?

19 MR. BOVE: We prefer the revised version.

20 THE COURT: I will make that revision to the last
21 sentence.

22 I believe next is paragraph 19, unless there is
23 objection before that, Mr. Bove.

24 MR. BOVE: 19 is next; yes, Judge.

25 THE COURT: I mentioned this earlier but since

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1 paragraph 19 discusses the April 28, 2022 investor meeting in a
2 bit of detail, I note that I will not strike the discussion of
3 the April 18, 2022 investor meeting as the government
4 represents in its declaration, the omission of the video clips
5 of that meeting appear to have been inadvertent and was
6 remedied as soon as the government became aware that it had
7 not, those clips had not been previously produced. I also did
8 not think that there is prejudice here to the defense for the
9 late production given that the clip was not exculpatory, as the
10 defense acknowledged and of course Mr. Alexandre himself was
11 the one who made these statements who presumably would know
12 what he said at those meetings, particularly the meeting on
13 April 18, 2022.

14 So, as to the changes in this paragraph let me just
15 first address some, because there appears to be agreement, the
16 government agrees in the sentencing submission on page 7 and
17 page 8 to certain changes, largely along the lines of the
18 defendant's request. So I will add to paragraph 19
19 subparagraphs A through C that read as follows:

20 Subparagraph A: EminiFX used as many as 59 employees
21 from the Robert Haft Staffing in March 2022 EminiFX had
22 approximately 25 accounting employees.

23 Subparagraph B: Robert Xiong was one of the employees
24 referred by Robert Haft. Xiong's résumé stated that he had (1)
25 extensive financial modeling experience and solid quantitative

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1 skills on credit equity derivatives structured products; and
2 (2) developed propriety and equity trading models to
3 systematically calculate intrinsic value given historical
4 financial data to identify investment opportunities.

5 And then subparagraph C: Alexandre also hired Jeffrey
6 Perelman as VP of FX development and member education. On May
7 3, 2022, Perelman extended an offer to Matthew Barlow for a
8 position as a full-time energy commodity trader beginning
9 Monday, 5/16/22. On May 6, 2022, Perelman notified Alexandre
10 that he planned to extend an offer to a second trader, Danny,
11 who was a seasoned Forex trader for BVVA Bank.

12 Now, as to the four statements from employees the
13 defense asked to include I will add what the defense proposes
14 to some extent, although there are certain changes proposed by
15 the government. I am not sure they are all directly relevant
16 to the offense conduct but I will add them to the report
17 nonetheless.

18 Subparagraph D will read, as follows: Various EminiFX
19 employees who were interviewed by the government provided their
20 observations as to the operations of the company including:

21 (i) Employee 4 thought EminiFX seemed to be a
22 legitimate company as they had traders, an accounting
23 department, and human resources department.

24 (ii) Employee 5 worked at EminiFX on coding models for
25 stock valuations and forecasting stock prices.

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1 (iii) Employee 6 stated that as CEO of EminiFX,
2 Alexandre had multiple traders -- although the government
3 contends that Dan was the only individual at EminiFX who
4 engaged in any trades on behalf of investors.

5 (iv) Alexandre hired an employee whose purported role
6 was to create a Forex division.

7 And that means then the original subparagraphs of 19
8 will we begin at that point starting at E. Actually, let's
9 just say those subparagraphs I just mentioned, maybe I should
10 start after the current E since they all pertain to the April
11 28, 2022 investor meeting.

12 Are there any other issues with respect to paragraph
13 19 that we need to take up?

14 MR. FOLLY: Not from the government, your Honor.

15 MR. BOVE: No, Judge. Thank you.

16 THE COURT: Is there still an objection to paragraph
17 20, Mr. Bove? This is the one that starts with the language
18 that the defendant made similar representations in other
19 settings.

20 MR. BOVE: No, your Honor.

21 THE COURT: And paragraph 22, is there an objection to
22 that one still?

23 MR. BOVE: We maintain our objection to the "failed to
24 invest" language, Judge. We are going to rest on our papers
25 for that. I do think there is a difference between what the

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1 investors thought when initially engaging EminiFX and sent
2 money in, so like some of the exhibits attached to the
3 government's submission referring to BitCoin transfers as
4 deposits, that initial interaction as compared to long-term
5 holding by any EminiFX other than BitCoin.

6 THE COURT: Would adding the language at the end of
7 the phrase in (1) saying: In the manner he promised
8 investors... address that concern? In other words, Alexandre
9 failed to invest a substantial amount of the investor funds he
10 received in the manner he promised investors.

11 MR. BOVE: Can I have one moment, Judge?

12 THE COURT: Yes.

13 (Defendant and counsel conferring)

14 MR. BOVE: Yes, Judge. We agree with that change.
15 Thank you.

16 THE COURT: Mr. Folly?

17 MR. FOLLY: Your Honor, we would still object to that
18 change. We think the language, as written, is accurate and
19 that it is actually a central part of the offense conduct. He
20 received well over a hundred million dollars in these investor
21 deposits and represented to investors that he was using AI
22 technology that was going to invest that money, and the money
23 sat there. He didn't invest it. These investors understood
24 they were funding deposits the same way if somebody was
25 transferring money into another currency, they would have the

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1 expectation that that money would then get invested.
2 Cryptocurrency, it's a currency and here you can invest and
3 have an investment strategy with respect to currencies, but
4 here all of the surrounding facts and circumstances demonstrate
5 that the funding of the deposits was understood by nobody at
6 the time to be the actual investments that were supposed to get
7 implemented by the defendant. So we think it is actually
8 important that this remains unchanged and that it accurately
9 reflect that the defendant let the money sit there, did not
10 invest it, and as a result of that he lost his investors tens
11 of millions of dollars that they will never get back.

12 THE COURT: Is it your view that just putting the
13 money in Bitcoin and seeing what happened to the money would
14 not qualify as an investment?

15 MR. FOLLY: Your Honor, under these facts and
16 circumstances it was not an investment. Investors understood
17 they were funding their deposits into EminiFX by sending them
18 in the form of cryptocurrency, and here, after the defendant
19 received those deposits, he did not implement an investment
20 strategy, he didn't, in turn, invest them, and that's what he
21 represented he was going to do. And it would be the equivalent
22 if they were using fiat currency and he said instead of sending
23 me dollars, send me pounds, and then received the pounds and
24 then claims later because he left them in pounds that that was
25 actually the investment and, look, you know, it either moved up

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1 or it moved down and that was the investment itself. But
2 nobody at the time had that understanding. That is just an
3 argument that is being used after the fact to hide the fact
4 that there was no actual investing going on, or at least as it
5 says here, a substantial amount of the investor funds he
6 received, he failed to invest them.

7 THE COURT: Is it your view that the money just was
8 never -- the funds were never moved from the Bitcoin, they were
9 converted into some other form of deposit or investment?

10 MR. FOLLY: That's correct, your Honor, and that is
11 reflected in the reports that the defendant has attached as
12 exhibits to his submission from the receiver, they reached that
13 exact conclusion. The money essentially sat there, a
14 substantial amount of it, and that was not an investment, it
15 was a deposit that was made by the investors for the purpose of
16 the defendant then investing the money and making the investors
17 money off of it.

18 THE COURT: Part of your argument though, too, is that
19 by having the money in Bitcoin the investors were subject to
20 significant risk. They also could have -- it also could have
21 gone up. It didn't go up in the summer of 2022 but it could
22 have gone up. Doesn't that make it an investment? Just not in
23 the manner that he promised investors.

24 MR. FOLLY: Your Honor, again, I think the fact and
25 circumstances matter a lot and here there are contemporaneous

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1 e-mails and other communications, internal communications at
2 the company that demonstrate everyone's understanding that the
3 funding through cryptocurrency was the placement of a deposit,
4 it was not the implementation of an investment. It would be a
5 very, very rare case where someone would hire an investment
6 company and transfer money and that, in and of itself, would
7 constitute the investment and then everybody would just say
8 hands off, we will let the money sit there, and your job is
9 done, you have now invested the money. That was the deposit.
10 Everybody understood I am funding a deposit the same way I
11 would send someone U.S.D. And sure, global market conditions
12 might change in favor or against the dollar and it might change
13 the value of that, quote unquote, investment, but nobody had
14 the understanding that that, in and of itself, was the
15 investment. It was the funding of deposits, the defendant
16 promised that he was going to, in turn, use that money and
17 invest that money, and he did.

18 THE COURT: Mr. Bove, how was that an investment?

19 MR. BOVE: First of all, Judge, I find fascinating
20 Mr. Alexandre's assertion that Bitcoin is the same as any other
21 fiat and I look forward to discussing that with some of his
22 other colleagues in crypto cases that seem to take a different
23 view.

24 Your proposed modification is accurate; this was an
25 investment, it wasn't the one that Eddy advertised on the

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1 website. The most obvious evidence in the record to
2 demonstrate that is the fact that when we get to the discussion
3 of actual loss in this case, it's going to be about what
4 happened in that account. We are not talking -- the comparison
5 between a transfer from dollars to some foreign currency,
6 that's also a type of investment because he wasn't just holding
7 these things.

8 The last point that I will make, Judge, is that what
9 Mr. Folly just did is a characteristic throughout their
10 advocacy, extrapolating from one or two discrete pieces of
11 evidence to just incredibly broad generalizations. They
12 submitted two communications that refer to a deposit out of
13 what they say are 30,000 investors. If they read the
14 receiver's documents they would understand that it's maybe 25.
15 But, those details don't matter to these guys. So the idea
16 that you take two exhibits and you stand up in court and say
17 everyone understood this, is just not a sustainable position
18 and your Honor's proposed modification is accurate.

19 THE COURT: I don't think the modification I proposed
20 impacts the ability of the government to make the arguments it
21 has been making and I am sure will make today so I will have
22 the modification as I mentioned.

23 Paragraph 24 is the paragraph that deals with the use
24 of investor funds that were inconsistent with representations
25 to investors mentioning the \$4.8 million home, the foreclosure

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1 properties, and the luxury vehicles. Let me hear more from the
2 defense as to that objection.

3 MR. BOVE: I think the main objection here, Judge, is
4 the idea that the website was the only way that Eddy
5 communicated with investors. On the one hand there are
6 arguments being made that Eddy communicated with them every
7 week during Zoom meetings about certain things but then when we
8 bring up points about meetings that happened with investors
9 with disclosures that are mitigating, those are categorically
10 rejected because they weren't advertised on the website. So,
11 our main points are these things were disclosed to investors
12 during those meetings.

13 THE COURT: After the fact or before they were
14 referred to?

15 MR. BOVE: While they were happening. So the cars
16 were advertised in social media while those transactions were
17 going on and this is -- we have laid out the evidence that we
18 submit supports this. So, that's the main part of this
19 objection. We reviewed Exhibits G and H to the government's
20 submission and acknowledge that the Manhasset property was
21 intended for Eddy's personal use so we are withdrawing that
22 objection.

23 The last point here is that there were service fees
24 that were disclosed to these investors and so the fact that
25 Eddy used some of those funds to purchase some of these things

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1 is consistent with the service fees that he said he was
2 charging. We fully recognize the response to that, Judge,
3 which is that these people didn't get what they paid for. We
4 wanted to make that point.

5 THE COURT: Mr. Folly?

6 MR. FOLLY: Your Honor, we maintain it is accurate as
7 written in the PSR. The defendant advertised this company as
8 being a crypto and Forex trading platform. The suggestion that
9 he was free to, after the fact, do whatever he wanted with the
10 money and make some sort of partial disclosures to the
11 investors as a remedy to that is just -- it's unlawful, your
12 Honor. That's the bottom line here. He represented he was
13 going to do certain things with the money, and to some extent
14 he made either contemporaneous, as in transactions were under
15 way kind of disclosures, or completely after-the-fact
16 disclosures, that the entire model for the company had
17 dramatically shifted, but in this context it is not meaningful
18 because he didn't have the right do that in the first place.
19 The whole company was premised, from day one, on a set of lies
20 about having a product that could be used to generate
21 investors' specific returns. That product never existed, he
22 was never entitled to get that money, and he was certainly not
23 entitled to use it to spend millions of dollars on a home for
24 him and his family, to spend enormous sums of money on luxury
25 cars, to spend money on fancy office space. All of that money

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1 that got spent will never be returned to these investors.

2 Period. And that is why it is accurate to characterize it as a
3 misappropriation as it is set forth in paragraph 24.

4 THE COURT: Were there not times when he represented
5 to investors that the investments included real estate, besides
6 the \$4.8 million Manhasset home?

7 MR. FOLLY: Your Honor, he did make representations
8 during the meetings that he had ventured into the real estate
9 space and that he was going to be flipping foreclosure
10 properties but the fundamental problem with this, your Honor,
11 is these investors were never sent a notice that said in 30
12 days the company is going to shift its investment strategy, we
13 are now going into the real estate market, we are going to be
14 flipping foreclosure properties. If you want to take out your
15 money now, if you think that is too risky, go right ahead.
16 Instead, they were notified of it as it was happening or after
17 it had already happened and it was completely inconsistent with
18 what he originally represented he was going to be doing with
19 their money. So he deprived them of the choice to withdraw
20 their money and he just misused it. He used it on things that
21 dissipated the money. Spending money on a \$5 million home for
22 himself and his family is a use of the money that will never
23 come back and it deprived these investors of their money and
24 these other purchases; cars, charity contributions, luxury
25 office space, all of these things had nothing to do with the

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1 investments that he promised he was giving them.

2 THE COURT: I'm definitely in agreement on the
3 \$4.8 million home. What I am more focused on are the
4 foreclosure properties and whether or not he represented that
5 their investments would include real estate and that might
6 include flipping these properties.

7 MR. FOLLY: Your Honor, he did not represent that the
8 investments were going to include real estate from the start of
9 the scheme. During the meetings, after people had invested, he
10 informed them that had he started using their money to invest
11 in real estate. That's the difference.

12 THE COURT: Mr. Bove?

13 MR. BOVE: I don't want our disputes over the PSR to
14 distract from what I think is the most important thing from the
15 defense perspective which is remorse. But it is my job to
16 fight to make sure this record is accurate and to hold the
17 government accountable when they misstep. It is the
18 government's burden in a proceeding like this to establish
19 facts like the ones that they just argued and I don't really
20 get to ask questions in a proceeding like this but as I was
21 listening to Mr. Folly I had to wonder, what is the basis in
22 the record for the sequence of the disclosures in meetings that
23 he just described? They submitted one recorded meeting. It
24 doesn't back what he just said and it doesn't establish that
25 when Mr. Alexandre discussed these things on the meeting that

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1 they did record that that was the first time. He hasn't
2 pointed to the timing of any of these contracts to establish
3 that position. And I would like to take this point one step
4 further because Mr. Folly used the phrase "since day one." And
5 when he said that and when he wrote that or something similar
6 in his submission, I had to wonder what is the basis in the
7 record for what was on the EminiFX website on September 1,
8 2021? I don't think there is anything. I think that they took
9 some screen shots in late April and May and are telling your
10 Honor that that's how it existed the entire time but I don't
11 think there is any support in the record for that.

12 In addition to that, when they say every week
13 Mr. Alexandre said this and that and this and that, the
14 receiver has found that the representations that were made with
15 respect to ROI began in late October so it wasn't every week.
16 And this is an exercise, Judge. This is an extremely
17 consequential day in this man's life and it requires a little
18 more precision than what you are getting from the front table
19 here.

20 THE COURT: Mr. Folly, what is the evidence about the
21 sequence of disclosure regarding the forfeiture properties.

22 MR. FOLLY: Your Honor, first of all, defense counsel
23 is ignoring that we actually submitted two recordings to the
24 Court. But, putting that aside, the issue that's being
25 presented is if it is accurate to describe in paragraph 24 that

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1 he used investor funds that were inconsistent with his
2 representations to investors. That's the issue. And the
3 descriptions that are set forward even on the recording make
4 reference to communications to investors about his use of the
5 funds to engage in these real estate transactions and the
6 recordings suggest that those transactions are in the process
7 of happening. It's pretty remarkable, your Honor, the
8 defendant -- this is his own company, he ran the whole thing,
9 and he is objecting to representations that are set forth in
10 the PSR about his timing of communicating to investors. He has
11 proffered absolutely nothing to the contrary. Zero. He has
12 made no representation or proffer that there is some factual
13 inaccuracy about the sequence and timing of these disclosures
14 and that they actually started on a different date and he ran
15 the company. And, your Honor, we are here at sentencing, he
16 had every opportunity to do that, and instead he is pointing
17 the finger at the government and saying that we are somehow not
18 being precise in our characterization of the sequence of the
19 facts here but there is nothing inaccurate about saying that
20 somebody who uses investor funds to do things like purchase a
21 home for themselves, to do things like purchase foreclosure
22 properties, is using them in ways that are inconsistent, at a
23 minimum, with their prior representations that they would be
24 using the funds for a cryptocurrency and Forex trading platform
25 and they would be using RA3 technology that would generate

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1 outsized returns.

2 THE COURT: Mr. Bove, as to the luxury vehicles, what
3 is the explanation for that? Wouldn't they be depreciating in
4 value?

5 MR. BOVE: Yes, Judge, they would.

6 THE COURT: Do they fall into the category of the
7 \$4.8 million home where you agree that those should not have
8 been purchased?

9 MR. BOVE: No, Judge. I think there is a series of
10 vehicles -- I am going to go to the vehicle part of the PSR in
11 paragraph 86. And so, there is seven here. Number one, the
12 BMW Eddy used personally. We acknowledge that for whatever
13 weight that deserves in his sentencing. 2 through 6 were not
14 used by Eddy, these were used by others at EminiFX, they were
15 disclosed in social media posts that we did provide to the
16 probation office in writing the PSR, and in connection with
17 Eddy's cooperation he went to great length to go to people who
18 possessed the vehicles and give them back so that whatever
19 value was on them could be recovered.

20 THE COURT: For the first sentence of this paragraph I
21 will slightly modify it to read: Alexandre used investor funds
22 for purposes that were, at times, inconsistent with his
23 representations to investors as to how he would use their
24 funds; and keep the remainder of the paragraph. Certainly I
25 understand the parties' arguments from both sides as to this

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1 but that language would be fair here.

2 I think the last objection may be paragraph 26, if
3 that still is an objection. Mr. Bove, is there an objection to
4 26?

5 MR. BOVE: I think it has been resolved based on your
6 Honor's modification.

7 I apologize for this. In reviewing the PSR to prepare
8 for sentencing there are a few other issues that I need to
9 bring to the Court's attention.

10 THE COURT: Go ahead.

11 MR. BOVE: These relate to paragraphs 28, 31, and 38.
12 So, in paragraph 28 there is a reference to a range of between
13 30,000 to 40,000 investors and we would ask that that be struck
14 and corrected, based on the receiver's report, which is Exhibit
15 J, I think at footnote 2, that indicates it is 25,000.

16 THE COURT: Mr. Folly?

17 MR. FOLLY: Your Honor, we don't have any objection to
18 that.

19 THE COURT: I will change, in paragraph 28, "30,000 to
20 40,000" to the number "25,000."

21 MR. BOVE: In paragraph 31 there is a foreshadowing of
22 an updated financial analysis from the government that I don't
23 think we got. There is another reference to the 30,000 to
24 40,000 number that should be corrected. And then I think the
25 remainder is accurate, these are representations the government

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1 made.

2 THE COURT: So I guess I would start that paragraph:
3 At present, unless there was an updated analysis provided in
4 advance of sentencing... Mr. Folly?

5 MR. FOLLY: Your Honor, I didn't hear the paragraph
6 number.

7 THE COURT: Sure; 31. It starts with saying that the
8 government intends to provide an updated financial analysis in
9 advance of sentencing.

10 MR. FOLLY: Yes, I think it is appropriate to start it
11 at present with the proposed modification as to the number of
12 investors that has been made by defense counsel.

13 MR. BOVE: And then paragraph 38 has that, the range,
14 again, of the victims.

15 THE COURT: I will make that change to paragraph 38 as
16 well to reflect 25,000 victims.

17 So, aside from those, are there any other objections
18 to the factual recitations in the presentence report?
19 Mr. Folly, anything from the government?

20 MR. FOLLY: No, your Honor.

21 THE COURT: Mr. Bove?

22 MR. BOVE: No, Judge.

23 THE COURT: Having resolved the objections that were
24 made and hearing no further objections, I will adopt the
25 factual recitations set forth in the presentence investigation

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1 report with the many changes that we have noted over the past
2 hour. The presentence investigation report will be made part
3 of the record in this matter and placed under seal. If an
4 appeal is taken, counsel on appeal may have access to the
5 sealed report without further application to me.

6 Let me turn to the sentencing guidelines now.
7 Although I am not required to follow the U.S. sentencing
8 guidelines, I still must consider the applicable guidelines
9 range when arriving at the sentence in this case. To do that,
10 it is therefore necessary for me to accurately calculate the
11 guideline sentencing range.

12 There was a plea agreement in this case. It appears
13 to me that the presentence report contains the same guidelines
14 calculation as the plea agreement; is that right, Mr. Folly?
15 Mr. Bove?

16 MR. FOLLY: Yes, your Honor.

17 THE COURT: Does either party have any objection to
18 the guidelines calculation in the presentence investigation
19 report?

20 MR. FOLLY: The government does not.

21 MR. BOVE: No, Judge.

22 THE COURT: Mr. Folly, I assume the government moves
23 for the third acceptance point?

24 MR. FOLLY: Yes, your Honor, we do.

25 THE COURT: I will grant that motion pursuant to

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1 Section 3E1.1(d).

2 So let me put on the record my calculation of the
3 application of the sentencing guidelines as to Mr. Alexandre.
4 The base offense level for Count One is six pursuant to U.S.
5 Sentencing Guidelines Section 2B1.1(a)(2), and that is because
6 the offense to which he has pled guilty, 26 levels are added
7 pursuant to Section 2B1.1(b)(1)(N). That is because the loss
8 amount was greater than \$150 million but not greater than
9 \$250 million; two levels are added pursuant to
10 Section 2B1.1(b)(2)(A)(i) and that is because the offense
11 involved 10 or more victims; two levels are also added pursuant
12 to Section 2B1.1(b) and (c), and that is because the offense
13 involves sophisticated means and the defendant intentionally
14 engaged in or caused the conduct that constituted these
15 sophisticated means; four more levels are alleged because the
16 offense involved a violation of the commodities law and at the
17 time of the offense the defendant was a commodity pool
18 operator; and lastly the offense level is decreased by three
19 pursuant to Section 3E1.1 because of the defendant's timely
20 acceptance of responsibility. The result is an offense level
21 of 37. Because the defendant has no criminal history, he has
22 no criminal history points, that puts him in Criminal History
23 Category I.

24 Now, offense level 37 and Criminal History Category I,
25 the resulting guidelines range would normally be 210 to 262

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1 months' imprisonment. The maximum authorized sentence for
2 Count One, however, is 10 years in prison, so that means the
3 effective guidelines range in this case is 120 months in
4 prison. And in addition, the guidelines fine range after
5 finding an ability to pay on the part of the defendant is
6 \$40,000 to \$1 million.

7 Now, I believe the plea agreement also provided that
8 neither party would be seeking a departure from the stipulated
9 guidelines range and of course I am referring to a departure,
10 not what is more commonly known as a variance. I understand
11 that the defense is going to be advocating for a variance from
12 that range.

13 Is that right, Mr. Bove? Does the defendant seek a
14 departure from the guidelines range?

15 MR. BOVE: We are not seeking a departure; correct.

16 THE COURT: What about the government?

17 MR. FOLLY: No, your Honor.

18 THE COURT: I, too, have considered whether there is
19 an appropriate basis to depart from the advisory guidelines
20 range and while I acknowledge that I have the authority to
21 depart, I do not find any grounds warranting an upward or
22 downward departure in this case and I therefore will decline to
23 depart from the guidelines range.

24 I will now hear from the parties as to sentencing. I
25 propose I will hear first from the government, then I will hear

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1 from Mr. Bove. I then will ask whether there is anyone, any
2 victims who wish to be heard, and then lastly I will see if the
3 defendant wishes to make a statement.

4 Does anyone have any concerns with that schedule?

5 MR. FOLLY: No, your Honor.

6 THE COURT: Mr. Folly or Mr. Lenow? Please.

7 MR. FOLLY: Your Honor, the scale of this fraud scheme
8 and the damage inflicted by the defendant was enormous in this
9 case. The brazen nature of his conduct, the exceptionally
10 large number of victims that he defrauded, the way that he
11 manipulated the members of his own community that trusted him.
12 He took that trust, he turned it around, and he used it as a
13 tool to recruit more and more victims into this fraud scheme;
14 victims who were not institutional investors, who were not high
15 net worth investment clients, victims who were ordinary,
16 everyday people who put their hard-earned money in his hands
17 for one reason, and that reason was because they trusted him
18 and they believed the things that he said about his company,
19 the lies that he told them about his company. In light of all
20 of that, a guideline sentence of 120 months is fully warranted
21 in this case.

22 Your Honor, starting first with the offense conduct,
23 which we have already spent a considerable amount of time
24 discussing here today, the first point there is the scope of
25 this scheme and the number of lives that it touched cannot be

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1 overstated. It was a massive scheme. It was an operation for
2 a period of eight months and only came to an end because the
3 defendant was arrested. But during that eight-month period of
4 time, the defendant managed to solicit approximately 25,000
5 victims into his scheme, an enormous number. Approximately
6 \$250 million in investments poured into the defendant's
7 company. He ran that company, it was his company, he was the
8 CEO, he was the spokesperson, it all revolved around him. And
9 not only did he manage to dupe such a large number of victims,
10 he also caused tremendous financial harm to those victims.
11 It's not just that he took their money, it is that he also
12 erased an enormous portion of their money that they will never
13 get back because of his lies and because of his scheme.

14 In addition, your Honor, one of the most deeply
15 troubling aspects of this scheme, and it is something that the
16 defense actually points to in favor of their request for a
17 below guideline sentence, I believe they phrased it as a
18 substantial variance; your Honor, he exploited his position in
19 the community. He was a trusted pillar of his community, of
20 his church, of the Haitian community. He was a pillar. People
21 believed him when he said he had a company and he had an
22 investment product that was capable of transforming their
23 lives, that was capable -- and this is not a direct quote, your
24 Honor, I am capturing the sentiment -- he offered them 5 to
25 9.99 percent returns every week. That is a transformational

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1 amount of money. And they believed him because they had every
2 reason to believe him because he presented himself to that
3 community, he was dedicated, he was known to give back to that
4 community, he served that community. We are not here to
5 dispute that, your Honor, but what we are here to do is
6 carefully examine the way that he used that as a tool to get so
7 many victims into this scheme, victims that would not have
8 otherwise trusted him. If he had been an unknown person, if he
9 did not have the reputation of trust and the reputation of
10 doing good deeds in his community that he did, he would never
11 have been able to successfully induce these victims to parting
12 with their hard-earned money and handing it over to him. And
13 right alongside that, he also used the church. He used the
14 church as an instrument to recruit, to get more victims into
15 this scheme.

16 So, while we recognize that his good deeds in the
17 community are a mitigating factor, his betrayal of that trust
18 and his deliberate use of it as a tool to get more and more
19 investors and more and more money into this company is anything
20 but a mitigating factor, it is a factor that counsels in favor
21 of the 120-month sentence, the guideline sentence that should
22 be imposed here.

23 In addition, your Honor, this was a scheme that was
24 entirely deliberate and calculated from inception. Your Honor,
25 we read the defendant's letter in this case carefully, and

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1 although the defendant said the theme for today at sentencing
2 is the defendant's remorse, what has been remarkable is that
3 since the day the defendant pled guilty, he has completely
4 failed to accept actual responsibility for his misconduct in
5 this case.

6 There was never a basis to start this company. There
7 was never a basis. The product never existed and the
8 defendant, nevertheless, launched the company, even though from
9 day one it was a fraud. It was entirely smoke and mirrors. He
10 had a fancy office in midtown, he hired multiple employees, he
11 had a website, he had a recruitment video on that website. The
12 problem, your Honor, was he never had the product that he was
13 telling the investors was going to earn them the money.

14 And your Honor, it was clear that it was calculated
15 because the defendant acknowledges that he was faced with
16 questions along the way. He said in that video that is
17 referenced in the PSR that he was getting questions about how
18 are you earning all this money for us? And he said it was this
19 proprietary product, this RA3, this AI technology. And your
20 Honor, it did not exist, that was a total fiction. And it was
21 the whole premise of the company. It wasn't a lie about do we
22 have 150 shoes on the shelf or do we have 130? Your Honor, it
23 was a lie about the entire promise that he was making to the
24 investors that he had this technology that could earn them
25 these huge returns. And it never existed. He said it was a

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1 trade secret, he said it was the core product. He kept leading
2 investors to believe that not only did it exist but it was
3 responsible for generating these incredible returns. He
4 peddled that from the beginning and that shows, your Honor, his
5 state of mind. He says today is about remorse but his actions
6 throughout this case and throughout this scheme demonstrate he
7 fully intended to mislead these investors.

8 Your Honor, another fact that is relevant to
9 understanding the defendant's frame of mind is his actions
10 during the scheme and some of the ways he was using the money.
11 And there was the suggestion in the defense submission that he
12 actually made a decision that he was going to try to fix his
13 errors. And that is completely contradicted by the record
14 because right during the same time in the lead-up to his arrest
15 that he claims he was trying to fix his errors, he was using
16 investor funds to purchase a \$5 million home for him and his
17 family -- with investors investor funds. So the idea that he
18 was trying to fix the company at the very same time that he was
19 using an enormous sum of investor funds to purchase himself a
20 \$5 million home, it is completely inconsistent with his own
21 actions.

22 Your Honor, I spoke a moment ago about the scope of
23 this scheme and not only the way that it impacted such a large
24 number of victims but the way that it had a very profound
25 impact on those victims, the way that it damaged and hurt their

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1 lives. And your Honor, some of the victims' statements speak
2 to this. On page 9 of our submission there is an excerpt from
3 a victim statement saying: My family lost over a half
4 a million dollars in this Ponzi scheme. Mr. Alexandre
5 destroyed my family -- I apologize -- destroyed family, broke
6 marriages, separated children with parents, caused people to
7 become homeless.

8 Your Honor, that's what happens when a defendant like
9 Alexandre targets everyday people and gets them to give them
10 massive amounts of money. It completely damages their life,
11 particularly here where there is real money that was lost and
12 will never go back to those investors. They have been without
13 that money for a year and they will never get that money, all
14 of it back; they will not because of the defendant's scheme.

15 This is not a scheme, your Honor, that hurt a small
16 handful of people or that hurt institutional investors or
17 anything of the sort. It is a scheme that damaged everyday
18 people's lives and that damage will be felt for years to come
19 as these investors try to put their life back together and deal
20 with the loss of the money as a result of this defendant's
21 actions.

22 Your Honor, the other point, just focusing on this
23 scheme itself, is the defendant did this himself, he did it
24 alone, he wasn't acting at someone's direction. This all came
25 from him. He cannot blame anyone but himself. He made every

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1 decision, he made the misrepresentations. It all falls on this
2 defendant.

3 Your Honor, in addition, there is a need here for
4 general deterrence. This was a fraud that changed the
5 defendants' lives overnight and there is the need to deter
6 other like-minded individuals from engaging in this type of
7 conduct. The defendant was able to get access to a lifestyle
8 that he never would have had absent this scheme. He suddenly
9 was the CEO overnight of a very, quote unquote, successful
10 company with tens of thousands of investors, with millions
11 under his management. He was able to purchase himself a
12 \$5 million home. Your Honor, general deterrence is important
13 here so that others do not engage in a scheme like this. It is
14 also important, your Honor, because schemes like this erode the
15 public's trust in the future for other investment
16 opportunities. They damage that trust and a substantial
17 sentence here is required in order to defer others from
18 inflicting similar damage on the community.

19 Your Honor, specific deterrence is also particularly
20 important here and that's not always the case in some of these
21 white collar sentencings, but here it is particularly
22 important. There is a few reasons for that, your Honor.
23 First, the defendant, despite remorse being the focus of today,
24 has just failed to accept responsibility. At his plea he tried
25 to minimize his conduct. He described the trading functions as

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1 not being, quote unquote, fully functional. He said he did
2 this as part of his marketing. He refused to say he intended
3 to mislead anyone, your Honor. And that goes to the heart of
4 what he did here. He deliberately, he intentionally, and in a
5 calculated fashion misled his entire community. That's what he
6 did in this scheme. There is no other explanation for his
7 conduct.

8 In his letter that he submitted he continues with this
9 theme of minimizing his conduct and placing blame on other
10 things besides himself. He places blame on the rapid growth of
11 the company for what happened in this case. He acts as though
12 he was just running a legitimate business and got in over his
13 head. Your Honor, again, the problem with this is it is just
14 inconsistent with what actually happened here. He wasn't just
15 running a legitimate company and got in over his head. From
16 the inception of the company he marketed something that never
17 existed. He marketed his core product that never existed. He
18 marketed returns that he never achieved. And he did that
19 throughout the scheme, all the way until his arrest.

20 So the notion that other circumstances were to blame
21 for what happened here, or the notion that he was just in over
22 his head, or the notion that he was actually going to fix it
23 and this was just the result of some technical failures or
24 anything of the sort -- that seems to be the suggestion
25 throughout his letter -- is completely inconsistent with his

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1 actual actions with what he did from day one.

2 Your Honor, the other point here is the defendant's
3 willingness to do something like this again. It is not just
4 hypothetical the way it is in some other cases. Your Honor,
5 the government has put forward documentation to the Court
6 indicating that after the defendant was charged in this case,
7 he continued to engage in conduct he knew he was prohibited
8 from doing. He continued to meet with victim investors, to
9 discuss additional investments, he attempted to dissipate
10 \$100,000, a substantial sum of money, despite making
11 representations that all of the money that he had access to was
12 tied up in connection with the government's actions that were
13 taken at the time of his arrest. Your Honor, that conduct,
14 since the case was charged, also speaks to specific deterrence.
15 It also speaks to the need for a substantial sentence, a
16 sentence of the guidelines of 120 months.

17 Your Honor, there is another point relevant to the
18 defendant's failure to accept responsibility. That failure in
19 this case has had a corrosive impact and effect on the judicial
20 system, on the legitimacy of these proceedings, on the public's
21 perception of justice. Many of the investors who wrote letters
22 of support that were attached to the defendant's submission do
23 not believe he did anything wrong. To this day. And your
24 Honor, one of the main, if not the main reason that they don't
25 believe he did anything wrong is because he has continued to

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1 make those representations. It's in his letter, the way he
2 writes his letter to the Court explaining what happened in this
3 case, it leaves the suggestion that this was not a fraud
4 scheme, that he didn't, at the inception of the company, launch
5 a company that didn't have the core product it was promising
6 his investors; it leaves the suggestion that what happened here
7 was a series of innocent mistakes and that is absolutely
8 inconsistent with what is in the PSR and the facts before this
9 Court.

10 There were statements in the letters that the
11 defendant kept his promises, that he never lied to anyone since
12 the launch of the platform, that he is innocent, that the
13 government shut down the club with a lot of accusations that
14 were not true. Your Honor, part of what is so troubling here
15 is the defendant's willingness, up through sentencing, to
16 attempt to continue to mislead that community that he misled
17 during the course of this fraud scheme.

18 THE COURT: Let me ask you, some of those individuals
19 who wrote, made reference to -- and I think the way you
20 described the letters is very, very fair, Mr. Folly, I will say
21 that, they almost all express frustration that this came to an
22 end because every Friday they were getting their 5 percent.
23 Were they actually pulling out 5 percent on every Friday or was
24 it a notification that your account went up 5 percent?

25 MR. FOLLY: Your Honor, on Fridays they had the choice

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1 as to whether they would withdraw or reinvest, and your Honor,
2 that goes to one of the core misrepresentations that the
3 defendant was making to these victims. It was the false
4 representation that that money actually existed as to all of
5 these investors, that if they all chose to withdraw all of
6 their money, including the profit that he falsely represented
7 they had made, they could do so. They never could. If they
8 had done that, there would have been far more money requested
9 to be withdrawn than existed. That was the core of this
10 scheme, it was a scheme that was operating in many ways as a
11 Ponzi scheme. It required the in-flow of new money in order to
12 satisfy whatever withdrawal requests came in because the
13 company was not earning legitimate investment returns and
14 certainly was coming nowhere close to the representations that
15 were made to the investors. And your Honor, that is detailed
16 in the attachment that the defendant attaches the report from
17 the receiver. It lays it out, week by week, the total
18 discrepancy between the representations made to investors about
19 their ROI and about what actually existed for those investors
20 were they to choose to withdraw their money.

21 So, your Honor, those investors believed that they had
22 that money but it was a total fiction, it never existed, that
23 money never existed. And your Honor, the defendant, the way
24 that he has presented himself in his letter to the Court, at
25 his plea allocution, it continues to mislead investors about

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1 the true scope of his conduct and what he really did to the
2 community that supported him and still supports him.

3 Your Honor, the other point relevant to specific
4 deterrence, this defendant is smart, this defendant has a
5 community of supporters, this defendant has a supportive
6 family, this defendant has shown over time that he is capable
7 of earning a lawful living. And while all of that is again
8 pointed to as mitigation, despite all of that, the defendant
9 engaged in this massive fraud scheme. He was blinded by his
10 own ambition. He continues to distort reality, that is clear
11 in his submission. And he will continue to put people in
12 harm's way as he has done even since the case has been charged.

13 So, your Honor, while he points to his personal
14 background, he points to his character all as being a basis for
15 a substantial variance, those factors cut both ways in this
16 case. He had opportunities many defendants don't. He was not
17 desperate. There is no suggestion that this was a crime
18 committed out of desperation. What is clear is it was a crime
19 committed because of his own ambition. He wanted what comes
20 with the success, he wanted to be the CEO of a big company.
21 And he has shown that he is willing to lie at every turn to get
22 and achieve that.

23 Your Honor, the last point, there was some argument
24 regarding unwarranted sentencing disparities. Your Honor, we
25 have cited two cases with fair resemblance to this case in

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1 which case the defendants received substantially similar
2 sentences. In addition to that, your Honor, the bigger point
3 here is this defendant's crime was not average. It wasn't an
4 average crime. So the comparison to other crimes that had
5 similar Criminal History Category or were in Zone Z of the
6 sentencing table, as cited in the defendant's submission, is
7 not appropriate here. This was a crime where the defendant
8 abused his position of trust in the community, he perpetrated
9 an egregious fraud that harmed 25,000 victims, that defrauded
10 them of \$250 million, that caused economic harm of at least
11 \$50 million that will never be returned to those investors. So
12 while we agree the loss amount should not be the sole driver in
13 any way of this sentence, the sentence sought by the government
14 of 120 months is not solely based on the loss amount, it is
15 based on all of the various factors that I have addressed
16 during the course of this sentencing.

17 Your Honor, nothing less than 10 years is just
18 punishment for what the defendant has done. Nothing less than
19 10 years is sufficient to deter others from get-rich schemes
20 just like this. Nothing less than 10 years is sufficient to
21 deter this defendant from engaging in future crimes. This
22 defendant, who despite his guilty plea, has failed to accept
23 responsibility in a meaningful way for his crimes and for the
24 enormous damage that he has inflicted on his community. Your
25 Honor, in light of that, there is no basis for the substantial

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1 variance requested by the defendant and every basis for a
2 guideline sentence of 10 years.

3 THE COURT: So, if Count One didn't have a max of 10
4 years the guidelines would be far higher than that. Count Two
5 had a max of 20 years. What should I take from the fact that
6 the plea was to only Count One here?

7 MR. FOLLY: Your Honor, in negotiating this plea the
8 government did take into account some of the mitigation that is
9 set forth in the defendant's sentencing submission. Among that
10 mitigation is the fact that the defendant will likely be
11 removed, although I would note he has chosen not to consent to
12 his removal and sign the consent to his removal. And your
13 Honor, he would be facing a far more significant sentencing
14 exposure had the government not offered him that lower cap of
15 10 years in this case. Your Honor, the government has already
16 factored in to its plea offer the very things that the
17 defendant is now citing in his request for a substantial
18 variance below that 10-year cap.

19 THE COURT: And presumably that will include accepting
20 responsibility.

21 MR. FOLLY: Yes, your Honor.

22 THE COURT: Where are things with restitution?

23 MR. FOLLY: Your Honor, as to restitution, we spoke
24 briefly with defense counsel before today's proceeding. Our
25 request would be that the Court today impose restitution in the

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1 amount of \$213,639,133.53, which is the maximum amount that is
2 set forth in the parties' plea agreement, with the
3 understanding that the parties will come back to the Court
4 within 90 days with a proposed restitution order for the Court
5 at that time that includes the table of victims and can take
6 into full consideration discussions with defense counsel as
7 well as the receiver on whether that number should be modified
8 to a different amount.

9 THE COURT: I will hear, of course, from Mr. Bove, but
10 is it your understanding that the defense agrees with that
11 amount, with what you just proposed?

12 MR. FOLLY: Your Honor, that is my understanding. We
13 only discussed it very briefly so Mr. Bove may have further
14 comments on that.

15 Your Honor, on forfeiture, we would note that the
16 Court entered the consent preliminary order of forfeiture at
17 the time of the plea and we would of course request that that
18 be ordered in connection with sentencing.

19 THE COURT: Obviously the point that you made
20 regarding conduct following his arrest, aside from that, do you
21 have any reason to dispute the claims that Mr. Alexandre
22 otherwise has been cooperative with the receiver?

23 MR. FOLLY: No, your Honor.

24 THE COURT: OK. Thank you very much, Mr. Folly.

25 Mr. Bove?

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1 MR. BOVE: Thank you, Judge.

2 We are here today because Eddy accepted responsibility
3 for this. He accepted it at his guilty plea, he accepted it in
4 a way that probation credited it, he accepted it in his letter
5 to the Court, and you will hear from him directly later on. It
6 seems to be the government's position that if Eddy doesn't want
7 to use the words they use, if he wants to exercise rights like
8 objecting to facts in the PSR, or requiring the government to
9 establish a basis for his removal, that somehow that reflects
10 something less than a complete acceptance of responsibility or
11 it amounts to a failure to express sufficient remorse. And
12 that is just not right, Judge, and it is just not right in a
13 case where the man has pleaded guilty in a setting that is
14 going to separate him from his family for the rest of his life.
15 And to the extent it is being suggested that there is a
16 difference between what Eddy said at his plea allocution and
17 what he is saying at sentencing in terms of acceptance, I
18 agree. He went one step further and he acknowledges that the
19 ROI figures were not accurate. I think that both of those
20 things together are the core of this offense, that is why we
21 are here, we acknowledge that, and that there is no dispute
22 from us about how gravely serious that offense is, about how it
23 has impacted the victims, about what's been said by those folks
24 that may be relevant to your Honor's consideration. No dispute
25 from us on that. We have endeavored to provide some context to

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1 talk about facts to provide you with evidence about what
2 happened during these eight months so that you have a clear
3 picture because it is simply not right that this looked on day
4 one, in September of 2021, like it looked on May 12 of 2022.
5 And we are not blaming anybody. Eddy said at his plea, I,
6 alone, am responsible for this. But the context matters and
7 that's why we put it before you and I would like to walk
8 through a little bit of that and address any questions you have
9 about what was going on at EminiFX and what I think it shows
10 about Eddy's intent.

11 Eddy started this company in September of 2021. They
12 didn't have a fancy office space at the time. To the extent
13 the prosecutors just suggested otherwise that is false. The
14 same thing, I will repeat a point I made earlier about evidence
15 of the website. It wasn't how this started out. The way this
16 started out was ambition, like Mr. Folly said, I agree, but it
17 was ambition that was not matched by sufficient experience in
18 this industry and technical capabilities to bring forward the
19 vision that Eddy had for EminiFX. And that's not to minimize
20 the fact that he said there was going to be AI trading and
21 automated trading and there was not. We have conceded that.
22 Whether we call it RA3 or not I don't think that is material.
23 We accept responsibility for that. But what happened in late
24 2021 was that few members joined and the price of Bitcoin
25 skyrocketed, up until September, and it made Eddy, in addition

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1 to the ambition, overly confident about his ability to deliver
2 on these things to the folks he was talking to at the time.
3 And I know your Honor has reviewed our submission and you can
4 see the way that the investor count changed over time, that the
5 receivers has described it as I think the vast, vast majority
6 of funds that came in the door happened in the last known weeks
7 of the company. Early on it was slow and he was wrong. He was
8 wrong throughout and he was wrong at the time about what he was
9 doing, but he thought that he could do better and as he tried
10 to get the company set up, as best he could with the limited
11 understanding that he had, things didn't fall into place for
12 him and part of that is the Bitcoin price decrease that your
13 Honor described, Eddy had trouble at banks because he wasn't
14 familiar with the commercial expectations of banks for accounts
15 like this for investor funds so funds got restrained and jammed
16 up from time to time and that happened beginning in December of
17 2021.

18 Then, in March of the following year, 2022, is where
19 you see the spike in investors. And look, I have brought to
20 the Court's attention that we think the number based on the
21 receiver's report is 25,000 investors. That is an
22 extraordinarily large number and I'm not suggesting otherwise.
23 But I think it is also important to keep in mind the structure
24 of the way this was set up. Eddy didn't directly solicit
25 25,000 people, there was a multi-level marketing structure in

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1 place that led this thing to explode in a way that maybe he
2 understood would happen but not at the level that it happened.
3 While that was going on, Eddy transferred funds to interactive
4 brokers, and your Honor referenced already today the evidence
5 that was provided about his communications with the CFTC. And
6 my point here is his mindset was that he was trying to get
7 these things set up. We are not saying he is not guilty. This
8 isn't a failure to accept responsibility. But you can see
9 steps beginning in March that show that the intention was to
10 get this going. We appreciate that your Honor has added to the
11 PSR the facts about what staffing at EminiFX looked like and
12 the timing of that. As of March there were 60 employees at
13 that office, 25 of them involved in accounting. We have talked
14 about Mr. Perelman and Mr. Xiong who were there to help Eddy
15 set up the trading that he had advertised. He was too little
16 too late. But what Eddy said at his guilty plea, that it was
17 his intention to earn people's money back and get them their
18 money back, it was, and that's what he was doing in March and
19 April and May.

20 One thing that we haven't talked about today but we
21 mentioned in the sentencing submission is the establishment of
22 a StoneX account which is described in Exhibits F and G, and
23 that's another step he took, albeit too late, to get automated
24 trading in place, relying on true experts, Mr. Xiong and
25 Mr. Perelman, to deliver what he had been advertising for those

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1 eight months. This was wrong. We are not suggesting
2 otherwise. You will hear from them on that point. But the
3 reason that we are bringing these things to your attention,
4 your Honor, is that this was a situation that -- it blew up.
5 He wasn't ready for it, he wasn't ready for what was going to
6 happen. He wasn't qualified to handle the different features
7 of this that needed to be put in place. And because of the
8 role that he had played in his community, which I understand
9 cuts both ways, because of that role he wasn't comfortable
10 telling people the truth. That's another extraordinary failure
11 in this case that he is sorry for and he is going to tell you
12 that. But it wasn't greed. He did buy some things. That
13 happened in late April and early May as these transitions were
14 put in place as he really thought things were trending in the
15 direction that he wanted them to be, but this was a crime that
16 was motivated -- I agree with what Mr. Folly said -- by
17 ambition and then really perpetrated in a period where he just
18 didn't have the tools to get it done right and he wasn't strong
19 enough to tell people that he had this problem. And that, to
20 me, your Honor, is what this crime is really about. And it is
21 not a lack of acceptance of responsibility. We have
22 acknowledged, the AI wasn't there. But he was taking steps to
23 make this right and I think that is relevant when you think
24 about risk of recidivism, specific deterrence, and some of the
25 other points that the prosecutors made.

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1 In terms of general deterrence here and what is
2 necessary to send a message, Judge, we all understand the
3 general point that 3553 directs sentences to factor in general
4 deterrence and to have this messaging feature but there is not
5 a particular number of months or years that need to be put on
6 the sentence in this case under these circumstances where we
7 are breaking up a family and he is going to live in Haiti after
8 he is done completing it. The message and the signaling here
9 was accomplished on the day he pled. And to the extent Eddy
10 didn't sign a judicial order of removal, Judge, that was
11 proposed to him last week within a day of the first discovery
12 violation the government disclosed to us. We hardly had time
13 to even consider it given the litigation that followed and all
14 the submissions that you described. So, I really hope that
15 that is not something that is going to be held against him when
16 he was offered these documents at a very difficult time in his
17 life with a lot going on.

18 There were some other things said about specific
19 deterrence, Judge, that are focused on post-charge conduct and
20 I want to be clear about what we are accepting responsibility
21 for and what we contest.

22 So, as I said, last night's submission, that happened.
23 I think the intention behind that was to support someone that
24 Eddy knew he was not going to have an opportunity to support
25 going forward. That doesn't make it right, far from it, but we

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1 think about the parties that were involved there. There was a
2 person involved in that situation who hadn't been fully
3 supported and that was Eddy's intent.

4 With respect to the idea that the government has
5 established a basis for the Court to find that Eddy solicited
6 investments after the charge in this case, we dispute that. If
7 the Court or the government feels that that is a material and
8 necessary to impose sentence today, we request a hearing, and
9 in particular on, I am referring to the full contents of
10 Exhibit N.

11 We have your Honor's ruling on Exhibit J but those two
12 exhibits and the people that submitted them are related. I'm
13 not here to attack anyone but this is another place where
14 context matters and there is a group within the victims who
15 decided to express their reaction to this by attacking Eddy
16 through falsehoods, and so because of that we have accepted
17 responsibility for the things that are true. And I understand
18 how grave a situation it is to stand up and say that we accept
19 responsibility with the submission last night and so I hope it
20 is coming across how seriously we take objection to these
21 others.

22 I think the government is also relying on Exhibit O to
23 support the claim that Eddy solicited investments after the
24 charge in this case. I don't think that that summary, one-page
25 summary of a, I think it is at least 50 minutes of a recording,

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1 establishes that at all. It doesn't establish who the parties
2 are. I don't think there are references to investments. There
3 is references to support and I think that what Eddy was talking
4 about at that time was support in connection with this process
5 because he had accepted responsibility publicly in February and
6 he was moving forward and he was talking to people who had
7 supported him emotionally before that plea and whether that
8 would continue after, but I submit that exhibit doesn't carry
9 the weight that the government has attributed to it. They
10 haven't identified who is talking, there is not a discussion
11 mention of investments.

12 So, for those exhibits, N, O, and J, we dispute those
13 facts to the extent they are layered in hearsay which is
14 indicative of the motives that drove these people to report
15 those things. I think a careful reading of J and O indicate
16 there is very little firsthand reporting in those letters,
17 particularly Exhibit N.

18 Having said all of that about what we dispute in the
19 record, with what is about to happen to Eddy, what more could
20 possibly be done to specifically deter him? He is going to be
21 removed from the country. You can consider what is happening
22 in the CFTC proceedings and what will ultimately happen in
23 those. He will be financially in ruins and owe these people
24 money, as he should, for the rest of his life. There are
25 obviously a lot of people in this world who believe that there

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1 are many redeeming qualities that Eddy has, people who look
2 back on the life he has lived so far and thinks that there is
3 an opportunity here for redemption and people that know him
4 today and believe that this is the beginning of a second act.
5 That's why Eddy's wife is here, his sister, his oldest son, and
6 many, many others. And I put myself in that group that
7 believes that this is a man who will contribute to society in a
8 very beneficial way going forward. And that's not me or any of
9 these other people guessing, that's based on the record
10 including 500 letters that we put in front of your Honor
11 describing his history. I hesitate to put a descriptor on the
12 challenges he faced growing up in Haiti; the poverty, the
13 violence, how he emerged as a leader to take care of his
14 siblings, take care of people around him, what that taught him.
15 That violence followed him into the United States. When he was
16 here and his cousin was murdered in Haiti, he had to bring back
17 his remains and lead the family in a funeral for that event.
18 Eddy has showed his continued commitment to his church, his
19 faith, his community by supporting these people throughout the
20 pandemic. Even before that you have letters from his pastor
21 and other people who have watched -- I recognize the point that
22 your Honor characterizes fair about some of these letters. So
23 there are 500 letters and some of them certainly hit the themes
24 that have been discussed already but others are very specific
25 and very detailed about the positive contributions that Eddy

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1 has made to society and that will continue while he is
2 incarcerated and when he gets out.

3 I do want to touch a little bit on the collateral
4 consequences of this because there is at least one that
5 certainly was not factored in by the government in plea
6 negotiations and I think collectively there is not very many
7 cases like this where a defendant with this type of conduct
8 faces removal, and so with the comparators we provided, there
9 is just not many non-citizen cases to abide by or to look at.

10 When I talked about reputational consequences in our
11 sentencing submission, what I was referring to was I think what
12 we generally regard as a branding of someone is going to be a
13 felon for the rest of their life and be known in that way and
14 there is public reporting about it and I have cited a case that
15 quotes that effect. What we learned last night and I think
16 what your Honor learned is that the reputational impact of
17 Eddy's conviction is much more serious than that and that there
18 were safety concerns with him relating coming into the
19 sentencing, and that's today, let alone what is going to happen
20 going forward in his life when he is removed to Haiti with
21 violent, pre-existing violence, and this will follow him for
22 the remainder of his time. The rest of the things we talked
23 about are very significant, Judge, and I think they take up
24 space on paper and it takes time for me to walk through them in
25 a courtroom. It is really, really hard to give full

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1 consideration to the idea that it is possible that even today
2 Eddy might not be at home with his wife and kids again. It's
3 likely, it is inevitable, that I think Eddy will be removed
4 from the country at the end of this sentence at a place where
5 his family can't in any real way visit him, certainly not for
6 long periods of time. And it is not every case where you have
7 a record like you do here of the closeness of these family
8 relationships and what is being broken up as a result of Eddy's
9 crime. That's a consequence of his decision, we get it, it is
10 a feature of the system, we get that too, but these are -- this
11 is a close family, Judge. And I understand that what was
12 submitted last night shed some light on a rough time in Eddy's
13 life and in that relationship I am talking about. For sure.
14 We are not here to suggest that he is perfect. But what came
15 out of that was very strong because you have read the letters
16 from the family directly. It is real what happened but this
17 family will never be the same as a result of that.

18 The last thing I want to touch on is the cooperation
19 with the receiver. There are steps here that Eddy took to
20 facilitate this to make this case different than others that we
21 have cited and make him more deserving of leniency than many of
22 the other situations that I looked at. We lay them out and
23 there is the vehicles, there is cancelling the real estate
24 contracts. He wasn't obligated to do any of this. Many people
25 in these situations fight. And you know Mr. Folly went to

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1 great lengths to talk about the corrosive nature and result of
2 the way Eddy approached this case on the judicial system. What
3 Eddy did was facilitate what the receiver was doing with one
4 exception that I acknowledge, but overall, this is somebody who
5 cooperated with him and facilitated the receiver's efforts to
6 recover money so that we are in a situation where, yes, there
7 is a large number, over \$200 million that EminiFX took in and
8 there is about \$170 million of assets that's been recovered so
9 far. And I think to me the most notable is the Bitcoin
10 payments account. The government did not know about this
11 account when this case kicked off. We laid out the things that
12 they said early in the case in our submission and haven't
13 suggested otherwise. At that time the government's deposition
14 was that Eddy had all of this money abroad and he was a
15 tremendous flight risk and he might leave. What Eddy in fact
16 did was tell me about the account so that we could get in touch
17 with Coinbase and start taking payments and start to take steps
18 to get that money back here, a hundred million dollars. By
19 acknowledging that the account was his and he controlled it, he
20 waived his Fifth Amendment right and he helped confer a benefit
21 that the government was not in a position to get itself with
22 the same level of speed by signing those consents and making
23 direct requests that Bitcoin payments and Forex to get these
24 funds back.

25 So when you look, Judge, at the whole record here, his

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1 upbringing in Haiti, the way he overcame challenges there, what
2 he did before this crime, the fact that it was an eight-month
3 very serious mistake, but eight months. The collateral
4 consequences that he faces and the steps that he took to
5 support what the receiver has done to help the members, we do
6 think that the parsimony clause requires a variance in this
7 case. I think that's consistent with the cases we have cited.
8 Some of them involve sentencing and those are cases with large
9 loss amounts. If the Court looks at what I consider to be the
10 actual loss amount in this case, which is about \$49 million,
11 the Bitcoin payments -- the Bitcoin losses and the coin
12 payments account plus the operational expenses of EminiFX, the
13 guidelines, I believe, come down to about 135 to 168, which is
14 a range that starts to resemble the 121 to 157 in *Rojas* and is
15 a little bit higher than the 87 to 108-month range in *Levin*.
16 Those are cases that both involved at least guidelines loss
17 amounts in the three digits, hundreds of millions of dollars.
18 *Rojas* involved a crime that lasted years as opposed to Eddy's
19 eight months, and there was a finding in that case that he
20 violated -- I think it was Judge Crotty's freeze order. There
21 is a basis now for a similar finding with respect to last
22 night's submission, I understand that, but I still submit that
23 the value of what is discussed in that submission is
24 dramatically outweighed by over a hundred million dollars of
25 recovery that Eddy facilitated.

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1 I also think that the *Abarbanel* case and the
2 sentencing by Judge Kaplan is another relevant comparator.
3 This is a case where the government, instead of extending the
4 10-year cap, extended a five-year cap to a violation of
5 Section 371. That crime, based on the record that I was able
6 to pick up from the docket, lasted for 2.5 years. There was a
7 \$106 million guidelines loss but he was only held accountable
8 for the actual loss, so there I think it was about \$21 million
9 which is -- that one I argue about the \$49 million, that's the
10 type of analogy that I am making, and there the government took
11 a similar position, we want the statutory maximum because we
12 have extended leniency and that leniency is the extent of what
13 is appropriate, and Judge Kaplan still imposed a 48-month
14 sentence.

15 I looked at *Jaramillo* and *Cosme* the two cases that the
16 government cited. My sense of the record from *Jaramillo* is
17 that he stole a lot of money, it was about \$1.2 million, and it
18 was all taken. That's not what happened here. We concede and
19 accept responsibility for the car, the Manhasset property.
20 There are things that Eddy spent on himself towards the end of
21 this crime. I think it amounts to -- it is certainly under
22 a million, I think it is a little bit, \$500,000 or \$600,000.
23 *Jaramillo* took all the money and Judge Swain said this at his
24 sentencing: I do not find him to be sincere except insofar as
25 I believe he is truly sorry that he had been caught.

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1 Eddy is going to talk to you in a minute, Judge, and
2 you will decide for yourself about whether the gravity of that
3 statement by Judge Swain applies here. I don't think it will.
4 I think you can already see the sincerity at his plea in the
5 way that probation described and the way that you he interacted
6 with them and that will continue and that is why the 144-month
7 sentence in *Jaramillo* is not appropriate, it doesn't suggest
8 that maximum, the statutory maximum sentence is appropriate
9 here, and it is just not an accurate comparison.

10 Cosme, in front of Judge Preska, involved a guidelines
11 range of 111 to 132 months. That was a combination of a fraud
12 charge plus a 1028A mandatory consecutive 24 months and so
13 there was a man min built into that sentence. Cosme committed
14 perjury at trial. It is all over the sentencing transcript
15 that the government cited to you. And so, the idea that
16 because Eddy didn't use the words that the government would
17 have preferred in pleading guilty as being some kind of
18 corrosive effect on this process as compared to somebody --
19 they cite to you a case where somebody committed perjury at a
20 trial, it illustrates how far afield that that case is from
21 where we are today. And so, the 111-month sentence there
22 doesn't support what the government is asking for here.

23 So what we are asking for, Judge, is leniency,
24 leniency that acknowledges the life Eddy lived before this
25 crime started, the family that he raised, the supporters that

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1 he has whether you think that is 500 or it is 250, it is an
2 extraordinarily high number for a defendant coming forward in a
3 court to be sentenced here, as further reflected by the fact
4 that -- nobody has said to me what the overflow courtroom
5 situation is today but I know there is at least one because I
6 watched people get turned away at the front door. And these
7 are people who have had the opportunity to read everything
8 that's been filed, to hear the government's allegations, and I
9 don't think they're here, Judge, to blindly support Eddy no
10 matter what. I think the people in this room, especially his
11 family and friends, are here because they see some virtue in
12 him and a chance for redemption and they want to be together as
13 they get that started today, whatever is going to happen.

14 We know part of what the going to happen is
15 extraordinarily severe no matter what sentence you impose. We
16 have set out some options that are alternatives to
17 incarceration followed by Judge McMahon, Judge Garaufis, I
18 think Judge Rakoff, that I think -- I hope I am sure you would
19 consider it. And they struck me, Judge, because there are
20 cases I have been involved in when somebody was going to be
21 removed supervised release, it was treated as academic, it was
22 treated as the idea that a Court should maintain jurisdiction
23 over somebody long enough to have some supervision while they
24 got put into ICE custody. What we are asking for a more
25 thoughtful approach to supervised release that is, has a

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1 punitive component because it has some restrictions on his
2 liberty. It puts Eddy in a position to interact with the
3 community in Haiti and to start giving back and it would allow
4 him, I think, a more -- a sentence that is more consistent with
5 the full record of his life as opposed to what we agreed is a
6 very serious set of records, lapses in judgments, and criminal
7 conduct during the eight-month period at issue.

8 And so, for all of those reasons, Judge, we are asking
9 for a significant variance. We leave it to your discretion in
10 its entirety. I'm not going to name a number, but I don't
11 think that based upon this record with the collateral
12 consequences, the cooperation with the receiver, and what you
13 have seen in terms of his whole life's work and people who
14 still believe in him, that 10 years is necessary.

15 THE COURT: Thank you, Mr. Bove.

16 Before I hear from Mr. Alexandre, if he still wishes
17 to speak, I will ask now, are there any victims of the offense
18 who wish to be heard? I think two gentlemen in the back. How
19 about the gentleman in the pink shirt come up first. You may
20 go to the podium and I will ask you, sir, to identify yourself
21 and then speak into the microphone and speak as clearly and
22 slowly as you can since we have a court reporter here.

23 MR. GUILLIAUME: My name is Binson Guilliaume. I am a
24 victim of Eddy Alexandre.

25 THE COURT: Before you tell us more, can you give us

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1 the spelling of your name, please?

2 MR. GUILLIAUME: My name is B-I-N-S-O-N
3 G-U-I-L-L-I-A-U-M-E.

4 THE COURT: Binson Guillaume. Thank you.

5 MR. GUILLIAUME: I am a victim of Eddy Alexandre.

6 THE COURT: I apologize, but just go a little bit
7 slower so we are sure to understand and capture everything you
8 have to say to us.

9 MR. GUILLIAUME: I am a victim of Eddy Alexandre. I
10 am a truck driver, your Honor. That man took my money by the
11 greed, he had promised to be -- make me a millionaire. I take
12 money, all my life savings to invest, by his promise, to get me
13 money. So, I lost \$100,000 of my life saving, I have evidence
14 to show it. Some people right here, your Honor, because of
15 what Eddy Alexandre did to the poor Haitian community some of
16 them -- I used to be sleep in my truck five days away, two days
17 home. Until last month your Honor Mr. Eddy Alexandre, that man
18 right there, his party was paid with my own money. Until now,
19 if you go less than 10 years, that man is nearly 50, he might
20 be going out doing the same thing over again. You can look how
21 many people support him right here. They wait for Eddy came
22 outside to do the same thing over again. None of them may not
23 be investor or victim by Eddy, he paid some of them to come
24 right here.

25 Your Honor, I am really frustrated. I am a poor man.

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1 I left my country. Eddy is coming from one of the biggest
2 school in Haiti. He was a well-educated man. At 14 I came
3 right here. If I was Eddy I would be a doctor or lawyer,
4 something. He is fortunate, he went to one of the best school
5 in Haiti by the Seventh-Day Adventist. He got all the
6 opportunity. That is what you did to the community.

7 I want you to stand up, Mr. Eddy Alexandre, to tell
8 all the people you sorry, because you lied to them. Look at
9 them right now, show us what you did and to the government the
10 community.

11 Your Honor, based upon what Mr. Eddy did to me, I
12 recommend the best, the high amount, the maximum the law will
13 command for that man. If you give him less than 10 years he
14 might come out there doing the same thing over and over again.

15 I got all the evidence right here, not no one paying
16 me to come right here because, you know, I am opponent. I have
17 to work hard to try to face all my needs, all my bills. That
18 means for the victim is it greed? It is a manipulation. He is
19 it sill going to be doing that because, you know, based off
20 what Eddy did to the community we never get back.

21 Thank you, your Honor, for the opportunity.

22 THE COURT: Thank you, Mr. Guilliaume.

23 I believe there was also a gentleman in a suit who
24 would like to speak as well; is that right?

25 MR. BAPTISE: Yes.

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1 THE COURT: You may come up as well, and also again,
2 please, identify yourself and please speak as slowly and
3 clearly as you can so we are able to capture in the transcript
4 anything you have to say to us.

5 MR. BAPTISE: Good evening. My name is Phucien
6 Baptiste.

7 THE COURT: Can you spell your name for us?

8 MR. BAPTISE: P-H-U-C-I-E-N B-A-P-T-I-S-T-E, like John
9 the Baptist, with E at the end.

10 Your Honor, I am here on behalf of all the victims who
11 are scared because some of them have been receiving threats if
12 they were to come to the court, something could happen to them
13 in the future. And I heard it, I have a witness. But me,
14 personally, as a victim, I worked hard, I suffered. When I
15 came here as a former police inspector from Haiti, I had to
16 leave Haiti because I was arresting some corrupt politicians,
17 gang members, to put them in jails. There are lawyers in Haiti
18 who would come and offer me money to free them. I will arrest
19 those people who come and try to bribe me. When I came here,
20 because my family didn't want me to stay in Haiti anymore
21 because they were scared that I might have got killed because
22 of the corruption running in this country. So I came here. I
23 worked in McDonald's mopping the floor to start. I made my way
24 to the school. I became a nurse after so many years of trying.
25 I failed nursing school because I was working full-time and

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1 going to school full-time to try to make a living. After I
2 failed nursing school, I went back again which I ended with my
3 nursing degree.

4 I invested in this Ponzi scheme that Mr. Eddy
5 Alexandre presented to the Haitian community. Every Thursday
6 night he would hold the meeting to offer high interest and at
7 the moment Bitcoin, the cryptocurrencies were getting high,
8 people wanted to invest their money. Mr. Eddy Alexandre took
9 this advantage, this opportunity to rob the Haitian community
10 of their life savings, people like Binson Guillaume who worked
11 27 years as a truck driver. His life savings, he showed me
12 close to \$100,000 of his life savings that Mr. Eddy Alexandre
13 robbed.

14 Mr. Alexandre never took responsibility for his crime
15 and I do think the court system, the justice system, the
16 prosecutors, it is well like they had spoke to me but none of
17 them knew me, and everything they said is true and if the law
18 is supposed to be priority, if we, as the justice employees, we
19 are to keep this society safe from criminals like Eddy
20 Alexandre never to have an opportunity to come back and hurt
21 this society, I request that the law be applied in its full,
22 full strength. Remember, the prosecutor has mentioned that
23 Mr. Alexandre has lied. Yes, he has, so many times with his
24 accomplices. He lied to the Court by saying he was acting
25 alone. There was no way Mr. Alexandre could have acted alone.

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1 He had accomplices like his sister, who is right here, who
2 would be in the meeting every Thursday night to present him.
3 Her husband is a lawyer. You mean to tell me your husband
4 never told you that a Ponzi scheme is illegal in a society
5 that, as a wife of a lawyer, you should not be part of it and
6 you are presenting your brother every Thursday night to the
7 community? And we have people like Jeffrey, who was doing the
8 stock trading and another guy name Bertrand Louis a/k/a Bert
9 Louis. They all knew it was a Ponzi scheme. We have another
10 prominent pastor by the name of John Maisonet. Those guys used
11 their influence in the community to rob poor-minded, innocent
12 people of their life savings. That's one lie that
13 Mr. Alexandre give by saying that he was acting alone. And I'm
14 here to ask the prosecutors why these accomplices were not
15 arrested and be put behind bars too? Because if they knew that
16 it was a Ponzi scheme, they were in the inner circle of the
17 club, why are they out there? They are out there again and
18 they're going to do the same thing to hurt this society, and as
19 members of the justice system we represent the state, we should
20 step up to keep the society safe, to keep peaceful citizens
21 safe, when they work 25, 30 years, \$9, \$10 an hour, they hardly
22 had an education but they managed to save while they have
23 family in Haiti, they are taking out of that \$9 an hour, \$10 an
24 hour. Some of them save \$10,000, \$15,000, \$20,000 and now you
25 rob them? Do you have a heart, Mr. Alexandre?

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1 Yesterday I had an interview with a guy who knew
2 Mr. Alexandre from his church in Queens by the name of Beraca
3 Seventh-Day Adventist Church. I have the whole interview
4 recorded with this guy of what Mr. Alexandre used to do at that
5 church. OK? And now again, prosecutors, why that arrest was
6 so precipitated that the accomplices were not part of this
7 arrest.

8 Another lie that Mr. Alexandre give, he broke the plea
9 deal that he had accepted, and if that plea deal was broken why
10 the justice system has to honor it when Mr. Alexandre himself
11 broke it after his release from jail, your Honor? He went and
12 try again to start a new Ponzi scheme. I have three witnesses.
13 I have three of them and they are scared. Two of them can come
14 here but they were afraid if they come something would happen
15 to them. One of them was his supporters. His name is Ricardo.
16 OK? After Ricardo followed him, your Honor, after Ricardo
17 followed him he opened that new Ponzi scheme again while the
18 process was going on. Ricardo told me that he invested \$100.
19 Mr. Alexandre called Ricardo and said why are you only invested
20 \$100 --

21 THE COURT: I'm going to ask you, please, to focus on
22 how you were a victim of the crime.

23 MR. BAPTISE: Yes, your Honor. OK.

24 I invested \$25,000. I would speak to Mr. Alexandre's
25 employees, one of them was Sophia, the wife of Pastor John

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1 Maisonet. She would tell me what to do and she would tell me
2 to not to invite people that I don't know. Why? If it is a
3 legal business anybody can come in and invest. OK? So the
4 reason why they were saying that, it is because they don't want
5 people to come and report them. OK? Now, when Mr. Alexandre
6 took my \$25,000, this was money that I was planning to put down
7 on a house. I have been in this country for about 20 years.
8 After all these hard life, hard working, honest-working, I save
9 to fulfill my American dream, Mr. Alexandre robbed me from
10 fulfilling my American dream and this is why I am here tonight,
11 to request that the Court does not honor the plea deal that was
12 made between Alexandre and the Court for the maximum 10 years
13 because he broke it so I request that the full prescription of
14 law be applied from 25 to 37 years.

15 Thank you.

16 THE COURT: Thank you, Mr. Baptiste. I did not see
17 anyone else, any other victims wishing to speak. I will ask
18 again. So hearing no one else, Mr. Bove, does your client
19 still wish to speak?

20 MR. BOVE: Yes, Judge. Thank you.

21 THE COURT: Mr. Alexandre?

22 THE DEFENDANT: Thank you, your Honor.

23 THE COURT: Oh. Hold on a second, Mr. Alexandre.

24 (Court and deputy confer)

25 THE COURT: I am told that there are more victims who

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1 now wish to speak before Mr. Alexandre speaks and I will hear
2 from them. I ask the first victim to come in.

3 MR. L'ROVENTURE: Good afternoon.

4 THE COURT: Good afternoon.

5 MR. L'ROVENTURE: Good afternoon. My name is Dimy
6 L'Roventure. D-I-M-Y, last name is L-'-R-O-V-E-N-T-U-R-E.

7 Thank you, your Honor, for giving me the privilege to
8 stand up here. I want to say thank you to Mr. Alexandre. The
9 reason I would like to say thank you to Mr. Alexandre, it
10 creates something, a dream, but sometime in life dreams is not
11 easy. I understand Mr. Alexandre started business where he
12 made, you know, things happen. He lost some money. And let's
13 say the word is hard to come out but he was not strong enough
14 to come out to tell the people he was losing but he got the
15 courage to try to hire people. He got the courage to try to
16 fix the problem but he did not have enough time. When I got
17 into business, I start in March 27, 2022. When I see what
18 happened, I couldn't be against him but I want to see more. As
19 the thing goes, I see a man that want to help his people. As
20 the day goes by, people was telling me how this man for the
21 COVID-19 would go out there helping people, people that he
22 doesn't know, people who need help. Now I believe what I heard
23 from other people, he end up catching the COVID-19 by helping
24 people. I am an investor like everybody. I know this guy
25 lost, I feel sorry for them. I lost too, but can I blame him?

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1 No. I was thinking -- I was taking a chance on something, in a
2 dream. I pray to God every day for that dream to accomplish.
3 Why do I have to pray to God if that dream was guaranteed? It
4 is because I know everything is not guaranteed. It is a
5 chance, you have to take it. This man risked his life, he is
6 taking blame. People threaten him. Those two gentlemen right
7 here, I understand they are victim but while you are a victim
8 you can't threaten this guy life. You cannot. You see all
9 those people here? Look at them. Can they threaten people?
10 There is a lot of old people. Look at them. Can they threaten
11 those people, them right here? No. People that are against
12 Alexandre because they in the lawsuit, you see I speak today,
13 I'm going to be in that lawsuit to. They are going to put me
14 in there because I stand for him. That's what they're going to
15 do. The man that started this lawsuit, why didn't this
16 gentleman come forward before that? Why everybody stay away
17 when they needed witnesses? Why? Because there was no
18 lawsuit. The lawsuit guarantee money if Eddy Alexandre get 20
19 or more. That's why the lawsuit guaranteed. That's why they
20 are going to see a lot of people walk away, because there is a
21 lawsuit out there, they tried to take those money. After they
22 talk to, they say, oh, there is money, I'm going to go get that
23 money but you have to make sure this guy go away. And the
24 money turned those people against each other. All those
25 people, all those ladies from Canada, from Florida, from

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1 California, you know he never threatened those guys.

2 Your Honor, I know you are doing your job but do it
3 from your heart, not what those people say. This man is a man
4 that is trying to help, a good thing that turned bad. That's
5 exactly what it is. I'm not a victim. I'm a man that tried to
6 take a chance on a dream and I know God have that dream for all
7 of us but please, your Honor, follow your heart. Please.
8 That's what I have to say. Thank you for the time.

9 THE COURT: Thank you.

10 Let me just advise the parties, we are now at 4:42.
11 We are going to end this proceeding by 5:00 so we are going to
12 need to resume it on another day, probably tomorrow. I will
13 hear from more people who wish to speak today. Maybe,
14 Mr. Alexandre, if we get there, but given how long we have
15 gone, I just want to give everyone a heads up about that.
16 Also, maybe I should ask right now, Mr. Bove and Mr. Folly,
17 about schedule for tomorrow. I am on trial at the moment, it
18 is a bench trial so I have some more flexibility in terms of
19 scheduling, but would resuming tomorrow at 4:00, for example,
20 be possible for everyone?

21 MR. FOLLY: Your Honor, that is fine for the
22 government. I just -- I understand that there were some very
23 specific travel arrangements that were made for people to be
24 here. If there is any way to go longer, I would request that
25 we do.

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1 THE COURT: I was told there are no more people who
2 wished to speak and then now it looks like there are a number
3 more. I don't know if the answer to that is no. Frankly, we
4 are not going to go into the evening after going for three
5 hours already. So I will hear as many as we can, but then we
6 are going to have to resume. The other option would be
7 starting early tomorrow morning as well. That might be
8 possible with travel arrangements as well.

9 Would 9:00 a.m. tomorrow morning be possible? That
10 might be a little bit better? I am talking to the attorneys.

11 MR. FOLLY: Your Honor, I think the government can
12 make that work. We do have some other things scheduled but we
13 think we can move them.

14 THE COURT: Mr. Bove, in terms of tomorrow's schedule,
15 we will continue to go today for another 15, 20 minutes, but
16 resuming tomorrow at 9:00, would that be possible?

17 MR. BOVE: Yes, Judge. Thank you.

18 THE COURT: So let me see if there is another, someone
19 else who wishes to speak, come on up.

20 MS. DEROE: Good afternoon, everyone. My name is
21 Magalie Deroe. M-A-G-A-L-I-E D-E-R-O-E.

22 I am here because I'm one of the supporters of
23 Mr. Eddy Alexandre. I am one of the investors. When I got
24 included in the investment with Mr. Alexandre, I was so happy
25 because making \$8 an hour, and able to investing in a business

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1 where if you invest something you can get something at least
2 would help me with my income, I was so happy and feel blessed.

3 Mr. Alexandre is very transparency. He would come out
4 on Thursday telling us everything that happened in the business
5 for the whole week. He will tell us everything that he could.
6 We used to get paid every Friday. It was our choice to either
7 we invest or cash out. So when we cash, when I cashed my
8 money, I would get it right away. And I was so happy with
9 that. And it is not only me, it is my family, my friends, and
10 most of the people with the green colors.

11 This is not the first time we come here and then fill
12 up five rooms. It has been since the beginning, as I am sure
13 you guys already know about it. So we always come here to
14 supporting Mr. Alexandre because he has helping us out just to
15 change our life. At this moment we come in a way where we used
16 to be one. Now for some reason we are divided with certain
17 group and they have their own plan, like my brother just said,
18 because of the lawsuit. So as of right now, we are talking me
19 as a woman, there is a lot of threat because we not with them,
20 we stick with Mr. Alexandre because we believe on what we heard
21 and we had before and with the business. Mr. Alexandre never
22 talked to one of us. If we come here from Florida, Canada, all
23 over, it is our choice because we would appreciate him with
24 what he used to do for us with EminiFX. So we came here just
25 to supporting him, your Honor, just to let you know and insist

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1 how appreciate, how we want him at least to have his life back,
2 and we just believed that he was out with EminiFX to help us
3 out with his heart.

4 He is a father. He is an honest person. He is a --
5 he has what they call human inside of him. He is an open
6 person. He loves people. He will help you even you don't know
7 who you are. That just happens. So we are here to supporting
8 him and we will continue supporting him, your Honor, with all
9 heart.

10 I don't know, this is my first time been coming to
11 court and been coming from Florida, and I said I will consider
12 coming because I know when you are honest with yourself and you
13 know why you are out to help people, God will say something.
14 My honor, I know. The decision, it is in your hands. We are
15 here to supporting him and we hope you understand and you hear
16 our voice and make the decision.

17 Thank you.

18 THE COURT: Thank you.

19 Before I hear from Mr. Alexandre, is there anyone else
20 in the courtroom who wishes to speak? Go ahead.

21 And I do ask people, I remind you that comments should
22 be discussing the criminal activity here as this is a
23 sentencing proceeding.

24
25 MS. MOMPRIER: Hello, everyone. Thank you for

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1 giving me this opportunity to speak. My name is Ermine,
2 E-R-M-I-N-E, last name M-O-M-P-R-E-M-I-E-R.

3 I am here, your Honor. I worked all night. I have
4 not slept for over 22 hours. I came from work, I drove to
5 Kentucky to take a flight to come here to support Eddy
6 Alexandre. Why? It is because when I left Haiti, I didn't
7 have anything. I came here alone with the Lord and I manage to
8 become a nurse. It was very hard and it was still hard because
9 I have a lot of siblings in Haiti. I'm talking about 14 of
10 them. And I had to do everything for everybody, including my
11 parents.

12 When Eddy Alexandre came up with this idea and I
13 became aware of it and I invested, and it was the best thing
14 that could happen to me, my life, and my family in Haiti. I
15 was able to help more and I was able to put them in a better
16 place that I have done before. So, it is very hard to see the
17 good things that was making us happy, turning out that other
18 people sad. He said he was going to give us 5 percent. 5
19 percent. And if he gave us the 5 percent, but if the market is
20 good, and then he will give us more. So, I, every Friday -- I
21 mean Thursday, after the meeting and I hear everything that he
22 is saying. Everything, he put it out. He said when the market
23 is red, when it is green. You know certain things, you know
24 that maybe sometimes you don't understand but as a trader you
25 know and what he always tell us the truth and people us what is

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1 going on.

2 We are human. Things happen, we fall or whatever, but
3 my Honor, I am here, like I said, not sleeping. I have to go
4 back to work tomorrow and I am asking you to please take into
5 consideration that we pouring our heart and soul to you because
6 we know that you -- God has the last say but you are here and
7 you are going to make that decision, and I am asking the Lord
8 to please help you to make the right decision, and I thank you.

9 THE COURT: Thank you.

10 Is there anyone else who wishes to speak? OK,
11 Mr. Alexandre, you may speak.

12 THE DEFENDANT: Thank you, your Honor.

13 Since I am speaking after the victims, I would like to
14 take the opportunity to apologize to the victims and specially
15 mention them by name Mr. Guillaume, the second victim
16 Mr. Baptiste, Mr. L'Roventure, Ms. Deroe, Ms. Mompremier, and
17 anyone who didn't have a chance to speak at this time. I would
18 like to acknowledge them and I apologize deeply for their
19 losses.

20 Dear Honorable Judge, I wrote some notes because I did
21 not want to miss anyone --

22 THE COURT: If it is easier since you are tall, for
23 you to be closer to the microphone, you can sit while you speak
24 to me, too, if that is more convenient.

25 THE DEFENDANT: I will try. I like to stand for your

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1 Honor.

2 THE COURT: OK.

3 THE DEFENDANT: Dear Honorable Judge Cronan: When I
4 embark on this journey, I left my career behind. I was a very
5 happy man, like the prosecutor said. I had a dream. I never
6 imagined I would be here today in that situation and that
7 settings. I am standing here today only to express my deepest
8 remorse and to humbly request leniency with regard to my
9 conviction.

10 I fully acknowledge the gravity of my actions and take
11 full responsibility for the consequences they have brought upon
12 myself and those that I hold dear who entrusted me with these
13 decisions.

14 First and foremost, I want to express my sincere
15 apologies to the Court and to all those who have been affected
16 by my actions. I understand the pain that -- the
17 disappointment, and disruption that my behavior has caused,
18 especially to my family and friends. My love for my family
19 runs deep and it pains me to see the hurt and the way my
20 actions have caused them -- the hurt my actions have caused
21 them.

22 I assure you, your Honor, that this experience has
23 been a wake-up call for me. It has allowed me to reflect on
24 the choices I have made and the impact they have had on the
25 EminiFX investors and my loved ones. I am committed to making

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1 amends, not only by accepting the consequences imposed by the
2 Court today or tomorrow, but also by actively seeking to better
3 myself and contribute positively to society. I recognize the
4 need for personal growth and rehabilitation and I am dedicated
5 to continue to utilizing any resources or opportunities
6 available to me for that purpose.

7 My family and friends have been my rock throughout
8 this ordeal. Their love, support, and forgiveness have been
9 invaluable to me. I realize the burden they have had to bear
10 and the sacrifices they have made day after day for the past 14
11 months on my behalf. I mean to repay their faith in me by
12 working towards becoming all that they see in me, mending the
13 bonds that have been strained and being a responsible and
14 law-abiding member of society.

15 Your Honor, I humbly request your leniency not as an
16 attempt to evade the consequences of my actions but as an
17 effort to rebuild my life and continue the journey of
18 redemption. I understand the importance of accountability and
19 rehabilitation. I assure you that I will diligently comply
20 with any terms and conditions set forth by the Court. I am
21 committed to making the most of this chance and proving myself
22 deserving your trust.

23 Once again, I express my deepest remorse for the pain
24 and disappointment I have caused. I am sincerely sorry and I
25 hope that my family and the Court can find it in their hearts

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1 to forgive me. I am ready to take responsibility for any
2 actions and strive towards a better future.

3 In closing, thank you for considering my request for
4 leniency. I am grateful for the opportunity to express myself
5 to the Court and to the members, to the victims, and my loved
6 ones, and for the fair and just proceedings of this Court.

7 If given the chance, I am committed to making positive
8 changes and becoming a law-abiding citizen who can contribute
9 meaningfully to society. Respectfully yours, your Honor.

10 THE COURT: Thank you, Mr. Alexandre.

11 Since I thought speakers might have gone a little
12 longer and since it is 5:00 now, I assume the preference would
13 be to proceed to sentencing at this point, Mr. Folly?

14 MR. FOLLY: Yes, your Honor.

15 THE COURT: Mr. Bove?

16 MR. BOVE: Yes, Judge. Thank you.

17 Is there any reason from the parties that sentence
18 should not be imposed at this point?

19 MR. FOLLY: No, your Honor.

20 MR. BOVE: No, Judge.

21 THE COURT: All right. Well, I will ask everyone to
22 bear with me again, I want to step back to the robing room and
23 think about everything that's been said this afternoon and I
24 will be back out in a few minutes.

25 (Recess)

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1 THE COURT: I will start by explaining the factors I
2 have considered in arriving at Mr. Alexandre's sentence.

3 First, as required, I have considered the advisory
4 guidelines range which, if not for the statutory maximum, would
5 be 210 to 262 months' imprisonment, because of the 10-year
6 statutory maximum is effectively 100 months in prison, as I
7 mentioned earlier.

8 Under the Supreme Court's decision in *Booker* and the
9 cases that have followed it, that guidelines range is only one
10 factor that I must consider in arriving at the appropriate
11 sentence. I also must require the factor set forth in United
12 States Section 3553(a)., those factors including the nature and
13 circumstances of the offense and the history and
14 characteristics of the defendant, the need for the sentence
15 imposed to reflect the seriousness of the offense, to promote
16 respect for the law, and to provide just punishment for the
17 offense, the need for the sentence to afford adequate
18 deterrence to criminal conduct, protect the public from further
19 crimes of the defendant, and to provide the defendant with
20 needed education or vocational training, medical care, or other
21 correctional treatment in the most effective manner. I also
22 must consider the kinds of sentences available, the guidelines
23 range, any pertinent policy statement, the need to avoid
24 unwarranted sentencing disparities among defendants with
25 similar records who have been found guilty of similar crime and

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1 conduct, and the need to provide restitution for victims of the
2 offense. And also, under Section 3553(a) I must impose a
3 sentence that is sufficient but not greater than necessary to
4 comply with the purposes of sentencing. I have given
5 substantial thought and consideration and attention to each of
6 these factors in arriving at Mr. Alexandre's sentence.

7 Eddy Alexandre orchestrated a massive investment fraud
8 that victimized thousands of individuals out of approximately
9 \$50 million. The tremendously serious nature of this offense
10 is the most important consideration in my mind today. I will
11 therefore begin with Mr. Alexandre's offense conduct, and in
12 doing so consider nature and circumstances of his offense, as
13 well as the need for the sentence to reflect the seriousness of
14 that offense and to provide just punishment for it.

15 Mr. Alexandre founded EminiFX in September 2021. In
16 the roughly eight months that followed until his arrest in May
17 2022, he defrauded tens of thousands of investors,
18 predominantly members of Haitian community and members of his
19 church, who invested over \$248 million with EminiFX. He
20 promised massive returns assuring investors returns of at least
21 5 percent each week and possibly up to 9.99 percent. That
22 meant investors could see their money double within five
23 months. The promise of such a return may seem unrealistic but
24 Mr. Alexandre's investors believed in him and trusted him. He
25 was an admired member of the Haitian community, he was seen as

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1 a man of integrity and faith, and investors trusted EminiFX
2 with their money. But, in truth, EminiFX was a fraudulent
3 scheme.

4 The primary way that Mr. Alexandre was able to
5 convince investors to put their hard-earned money into EminiFX
6 was by telling them that he had this amazing secret technology
7 called robo-advisor assisted account. EminiFX advertised its
8 sophisticated trading functions on its website. Each investor
9 supposedly would receive a fully-serviced robo-advisor assisted
10 account and AI software. That technology, according to
11 Mr. Alexandre, would allow for investors to earn passive income
12 through automated investments in cryptocurrency and foreign
13 exchange trading. That is how those outsized returns
14 supposedly would be generated, but in reality, Mr. Alexandre
15 never had that robo-advisor assisted account up and running.
16 This special secret technology did not exist.

17 In addition, Mr. Alexandre reported false return on
18 investment figures to investors. He would report to investors
19 that he had secured the promised returns but did not disclose
20 to investors that they in fact were suffering substantial
21 trading losses. All of this was to bring more investments into
22 his company and keep investors with his company. The fraud
23 extended over several months and it entailed Mr. Alexandre
24 employing sophisticated methods, it entailed him working to
25 enlist more and more investors. It entailed weekly investor

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1 calls, it entailed creating incentives for investors to bring
2 in more people. Existing investors received commissions from
3 recruiting others to join in EminiFX. This was not a one-time
4 transgression, it cannot be regarded as an isolated or rash
5 decision. This was a calculated, planned, and ongoing fraud.
6 And the reach of the fraud was vast, it was approximately
7 25,000 victims. Thousands of lives were damaged. Many of
8 those victims cannot afford to lose their money they invested.
9 A lot of the investors, it is clear, invested much of their
10 life savings. We heard that today. In fact, one of the
11 investors who wrote a letter in support of Mr. Alexandre said
12 that she, quote, trusted Mr. Alexandre with all my life savings
13 knowing that he will invest it and give me a good return.
14 Another woman who met Mr. Alexandre at her church also wrote in
15 support of Mr. Alexandre and said that she had invested her
16 family's money in their 401-k with EminiFX. It seems that this
17 person was perhaps receiving either weekly returns or
18 notification of weekly returns and it is not clear to me from
19 her letter that she even appreciated that the fraud -- she even
20 appreciates now that the fraud was taking place. And I heard
21 from some supporters of Mr. Alexandre today who talked about
22 their weekly 5 percent or more returns. But the money just
23 wasn't there and it wasn't there because this was, in essence,
24 a massive Ponzi scheme.

25 The government also submitted various letters from

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1 victims of this fraud discussing the significant harm they
2 suffered. One victim wrote that Mr. Alexandre used people's
3 weaknesses such as God and the Bible to lure them in and
4 ultimately rob them of our hard-earned money. He wrote: My
5 family lost over a half million dollars in this Ponzi scheme.
6 Mr. Alexandre destroyed family. Another wrote how he was
7 completely blindsided by Mr. Alexandre's charisma and ruse when
8 that individual, along with his family and friends, threw their
9 support behind him.

10 Two of his victims spoke today, at least two people
11 who appreciated they were victims spoke today. Mr. Guillaume
12 invested his hard-earned life savings. Mr. Baptiste, another
13 hard-working man, invested \$25,000 in the scheme. He was
14 saving for a home. These were real victims, about 25,000 of
15 them; families, hard-working families, people like
16 Mr. Guillaume and Mr. Baptiste, people who lost, in total,
17 upwards of \$50 million in their investments and they lost that
18 because they were deceived by Mr. Alexandre. Maybe it is true
19 that Mr. Alexandre was hoping to make a profit for his
20 investors. There is some indication that he was working to
21 make his company succeed by hiring an employee to work on a
22 coding model and another to help on foreign exchange and
23 investment training. But Mr. Alexandre was over his head. He
24 had no experience as an investment manager and regardless of
25 all of that, it does not change the simple fact that he was

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1 lying to his investors about his company's technological
2 capabilities and the investment returns that were coming in and
3 that they should expect. And these lies caused many people to
4 lose a lot of money. I am also troubled because there was
5 every indication that this fraud would only have continued if
6 it were not disrupted by law enforcement and the CFTC action.
7 Mr. Alexandre was actively recruiting more investors, he was
8 receiving more and more funds. The fraud only ended because it
9 was forced to end. Maybe Mr. Alexandre would have tried to
10 continue to try to dig his way out but I have no reason to
11 believe that he would have stopped lying to his investors
12 unless law enforcement stepped in.

13 I also am not convinced that greed had nothing to do
14 with this crime. Perhaps part of his motivation was to provide
15 this community with investment opportunities but I do believe
16 that avarice did come into play, as well as ambition. Some of
17 the fraudulent proceeds went towards a multi-million dollar
18 home in Long Island for Mr. Alexandre's family. While there is
19 an argument as to the status of the other foreclosure
20 properties in Long Island and whether those were investments
21 for EminiFX, that certainly cannot be said for the \$4.8 million
22 home, nor can it be said for the BMW that he used for himself.

23 I have considered as well other sentences for
24 analogous conduct. The defendants point to my prior sentence
25 of Adam Rojas for financial fraud and, without question,

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1 Mr. Rojas committed a very serious fraud but very different
2 from here.

3 Here we have a massive number of individual victims.
4 We have sophisticated means employed by Mr. Alexandre. We have
5 Mr. Alexandre taking advantage of the trust that his community
6 placed in him and I do find this conduct considerably more
7 egregious than Mr. Rojas'. At the same time, while the
8 *Jaramillo* case may be more analogous to Mr. Alexandre's conduct
9 in that the defendant there targeted a sophisticated investors
10 in the community, it does seem to that the defendant or that
11 Mr. Jaramillo used considerably more of the defrauded funds for
12 his own personal benefit and that defendant received a
13 144-month sentence which, obviously, is higher than the maximum
14 here.

15 Now, I do find the guidelines range helpful here in
16 arriving at the appropriate sentence. The U.S. Sentencing
17 Commission has set a guidelines range for this conduct that
18 would be 210 to 252 months. The effective range in this case,
19 of course, is much lower, it is 120 months. But the statutory
20 maximum for Count One, that maximum is 7.5 years below the
21 bottom of the range the commission established for this conduct
22 if it were not for a statutory maximum.

23 I also find the loss amount that gave rise to that
24 offense level to be appropriate. It is a value of funds that
25 investors were defrauded into investing. Even if I were to

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1 just look at the amount of funds investors in fact lost, which
2 to be clear I don't think is the appropriate consideration,
3 even that figure would trigger a guidelines range above the
4 statutory maximum here, it would be a range of 135 to 168
5 months. On top of that, I think it is worth noting that the
6 offense level here includes a two-level enhancement for 10 or
7 more victims under Section 2B1.1(b)(2)(A)(i). There are
8 250,000 victims here. Without question, this was an
9 exceedingly serious offense. At the same time, I note that for
10 the offense Mr. Alexandre pled guilty to, Congress has set a
11 statutory maximum of 120 months' imprisonment.

12 I will also discuss some of the other Section 3553(a)
13 factors. In particular, let me address the need for deterrence
14 for Mr. Alexandre and others and for the sentence to promote
15 respect for the law and to protect the public from future
16 crimes for the defendant.

17 As for individual deterrence and the need to protect
18 society from future crimes by the defendant, I note that
19 Mr. Alexandre does not have a criminal history. There is no
20 information suggesting that he violated the law in the past or
21 that he posed a danger to society prior to committing this
22 offense, and as I will discuss more in a moment, very much the
23 opposite seems to be the case. There is considerable
24 information before me including from the many letters submitted
25 on Mr. Alexandre's behalf that he has been someone who helps

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1 others, who has had a positive impact in his community, this
2 fraud notwithstanding, and that he is someone who is supportive
3 of his family and friends. But, as I mentioned before, at the
4 same time this was not a one-time transgression. Mr. Alexandre
5 only stopped committing the fraud because he was arrested and
6 that the parties acknowledge the defendant attempted to
7 dissipate \$100,000 that should have gone to victims after he
8 was arrested in this case. There is some degree of need for
9 specific deterrence here.

10 There also is considerable need for general
11 deterrence. People in society must realize that the commission
12 of such massive investment schemes have real victims, and when
13 that happens there will be real consequences. There is a value
14 for would-be fraudsters to note that if they choose to engage
15 in fraud, they may be caught and face serious consequences.
16 And economic-based fraud that requires sophistication, planning
17 and deliberation, such as the crime here, is the sort of more
18 rational and calculated crime for which general deterrence is
19 likely to have a stronger impact?

20 I touched on Mr. Alexandre's history and
21 characteristics a bit earlier but let me say some more about
22 that. Mr. Alexandre was raised in challenging conditions in
23 Haiti. He grew up in a neighborhood impacted by poverty and
24 violence. He had a loving upbringing with his family but they
25 did struggle for food. As a child and a young man he witnessed

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1 crime and violence in Haiti, and then he emigrated to the
2 United States in 1998 and became a legal permanent resident.
3 By all accounts, he has been a productive member of society in
4 our country and in Haiti until his commission of this crime.
5 He secured an excellent education in Haiti. I understand that
6 he received a bachelors degree in computer programming and
7 accounting from the University of Adventist in Haiti, and that
8 he further pursued college studies in economics at another
9 University in Haiti. He has held excellent jobs in information
10 technology and computer software both here in the U.S. and in
11 Haiti. He operated two different companies focused on
12 mortgage, real estate, and information technology services. He
13 worked for a security protection company in Long Island, he was
14 a senior network engineer and senior architect for HBO, and
15 even as this case has been pending, he secured a very good job
16 as director of operations for an irrigation company in Long
17 Island. Yet, as with several of the considerations in this
18 case, this cuts both ways.

19 Mr. Alexandre is different than any of the criminal
20 defendants who appear before me. While he grew up in difficult
21 and challenging conditions in Haiti, he has a loving family.
22 He was fortunate to receive a very good education. He held
23 excellent jobs. He was taking advantage of the many
24 opportunities that our country gave him. He was successful.
25 He did not have to resort to this criminal activity. He was

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1 not desperate to put food on the table. His motivation was not
2 financial desperation. It may have been, in part, to help his
3 community invest, but also it was for him to make more money.

4 Now, on the topic of his community, I have received a
5 massive number of letters in support of Mr. Alexandre. They
6 come from family members, from members of the community, from
7 members of his church, from many EminiFX investors. As I
8 alluded to earlier, it seems like that from these letters, many
9 of those investors believe they were making money thanks to
10 Mr. Alexandre reflecting the returns or notification of their
11 return. These letters -- and I believe the defense has
12 submitted roughly 500, totaling over 750 pages -- over and over
13 again discuss, speak of Mr. Alexandre in very high terms.
14 There are some common themes in those letters:

15 He is a devoted husband and loving father.

16 He is a leader in the Haitian community.

17 He is a leader and guiding member of his church, a man
18 of faith.

19 He is committed to service.

20 He volunteers and delivers food at food drives.

21 He tries to help others.

22 He is viewed as an honest and trustworthy man and a
23 man of integrity and dignity.

24 He is a skilled musician who will play for free at
25 weddings and church functions.

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He is a reliable friend and a mentor to the young.

And today, I believe we have three overflow courtrooms from what I am told, and each of them are full.

there are some specific concrete examples of his charitable efforts in the community:

He formed a non-profit Reform-Haiti in 2012 to improve Haitian access to healthcare.

In 2013 he visited Haiti with medical supplies to be distributed.

In 2014 he started a youth mentorship program in Queens.

According to Mr. Alexandre's brother-in-law, in 2000 he implemented a program in the Flatbush community to encourage young people to stay in school and he has mentored young people in the community.

He is a chaplain in his church.

He works with church attendees in need including their physical, mental, and social needs

He has done various work at North Shore hospital with ill patients and their families. He facilitated the pickup and delivery of groceries and prescription medication for elderly or sick members of the community. He helped people who were suffering from COVID 19 during the pandemic.

But this all also cuts in another direction, too. It seems to me that the overwhelming majority of Mr. Alexandre's

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1 victims were members of the Haitian community and/or his
2 church. Many of those victims, including I am sure many of the
3 people in the court house today, looked up to him and placed
4 their trust in him when they invested their hard-earned money
5 with EminiFX. They did that because they trusted him and they
6 trusted his promises of huge investment returns. One of the
7 investors who wrote in support of Mr. Alexandre wrote that
8 EminiFX created hope in the hearts of Haitian families. This
9 was a close-knit and trusting community. Mr. Alexandre was
10 strongly admired. That resonated in the letters I received and
11 in some of the people who spoke today.

12 The owner of what I believe is the company that the
13 defendant now works at described Mr. Alexandre as a man of God,
14 a man of his word, a great leader. Mr. Alexandre is a hero in
15 our community.

16 Another letter written by a minister who invested in
17 EminiFX wrote, When I have heard about EminiFX and the Haitian
18 community, my first question was who is the CEO? And when I
19 knew it was Mr. Eddy Alexandre, I did not ask a second question
20 because I knew that Mr. Alexandre was a man of integrity and
21 vision.

22 Another investor said he invested with confidence
23 knowing that Eddy is a trustworthy person who always kept his
24 word. Yet another investor wrote when I told my husband about
25 EminiFX, he shared with me that since Eddy is the leader, he

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1 would be on board. We trust him and know he would never steer
2 us wrong.

3 That was a trust that Mr. Alexandre had in the
4 community. Those are words coming from his supporters but he
5 did steer them wrong. He betrayed that trust and that trust
6 only contributed to the huge magnitude of this fraud. The
7 investment on returns that the defendant promised seemed absurd
8 and unrealistic, between 5 and 9.9 percent week, but these
9 investors believed in him. They believed in him as a trusted
10 member of the church and as a respected person in the Haitian
11 community and they trusted him with their hard-earned money.

12 Another investor, for instance, wrote to me also in
13 support of Mr. Alexandre, but what he said showed how so many
14 people were deceived. He wrote: We live in a world where
15 dishonesty is in full swing, we can trust nobody. However,
16 among the rules there is an exception. Eddy Alexandre, our
17 CEO, is an exception. He is a man of integrity, a man of
18 character, a man of God. That investor was receiving the
19 promised returns on Friday, but in actuality, investors were
20 suffering massive losses and I suspect many of the victims
21 likewise thought that Mr. Alexandre was someone they could
22 trust.

23 Now, with all of that said, Mr. Alexandre has accepted
24 responsibility for his crime. He entered a guilty plea at a
25 relatively early stage of this case, especially for a case of

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1 this size and magnitude. It appears that, for the most part,
2 he has been cooperative with the receiver in a civil case
3 helping the receiver to recover funds from the victim of the
4 offense. I mention, of course, in this instance where he tried
5 to dissipate funds. But putting that instance aside, the
6 receiver has reported favorably on Mr. Alexandre's cooperation
7 to secure assets including stipulating to turn over certain
8 assets and providing a list of accounts, and the receiver noted
9 that this helped reduce recovery costs. That included access
10 to his Coinbase account. But notwithstanding these efforts, it
11 is clear that victims of this offense are not likely to be made
12 whole.

13 I have also considered the impact of the sentence on
14 Mr. Alexandre's immigration status and his family including the
15 possibility of separation from his family after he completes
16 his sentence. I have considered these mitigating circumstances
17 but I also must consider the extremely serious nature of this
18 crime, I must consider the nearly 25,000 victims who were
19 defrauded out of nearly \$50 million of their hard-earned money.
20 I must consider the massive nature of this fraud.

21 I will now state the sentence I intend to impose.
22 Mr. Alexandre, will you please rise. Mr. Alexandre, it is the
23 judgment of this Court that you are remanded to the custody of
24 the Bureau of Prisons for 108 months. That federal term of
25 imprisonment is to be followed by a period of three years of

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1 supervised release. I conclude that the sentence is sufficient
2 but not greater than necessary to achieve the purposes of
3 sentencing for the reasons I just went through and if you like,
4 you may be seated while I read the conditions of supervised
5 release that you must comply with.

6 The standard conditions of supervised release shall
7 apply. Those are on pages 51 and 52 of the presentence report.
8 Mr. Bove and Mr. Alexandre, would you like me to read those out
9 loud?

10 MR. BOVE: That's not necessary, your Honor.

11 THE COURT: If anyone would like me to read them out
12 loud, I will, but otherwise I assume that Mr. Alexandre and the
13 attorneys have read them, given that everyone has stated that
14 they read the presentence report.

15 In addition, you will be subject to the following
16 mandatory conditions:

17 You must not commit another federal, state, or local
18 crime.

19 You must not illegally possess a controlled substance.

20 I will suspend the drug testing condition based on my
21 determination that you pose a low risk of future substance
22 abuse.

23 You must cooperate in the collection of DNA as
24 directed by the probation officer

25 You also must make restitution, which I will address

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1 shortly.

2 You also must meet certain special conditions of
3 supervised release and I will explain the special conditions
4 that I will impose. You must provide the probation officer
5 with access to any requested financial information. You must
6 not incur any new credit card charges or open additional lines
7 of credit without the approval of the probation officer unless
8 you are in compliance with the installment payment schedule.
9 You must submit your person and any property, residence,
10 vehicle, papers, computer, other electronic communications,
11 data storage devices, cloud storage or media and effects to a
12 search by any U.S. probation officer and, if needed, with the
13 assistance of any law enforcement. The search will be
14 conducted when there is a reasonable suspicion concerning the
15 violation of condition of supervision or unlawful conduct by
16 you.

17 Failure to submit to a search may be grounds for
18 revocation of release and you shall warrant any other residents
19 of the premises that the premises may be subject to search
20 pursuant to that condition, and any search shall be conducted
21 at a reasonable time and in a reasonable manner.

22 You also shall be supervised in the district of your
23 residence during a term of supervised release.

24 Restitution is mandatory in this case. In addition,
25 in your plea agreement you agreed to make restitution in an

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1 amount to be specified by me and that it will be a condition of
2 your supervised release.

3 As discussed earlier, I will order restitution in the
4 amount of \$213,829,276.73 today, with the understanding that
5 the parties may come back within 90 days, which I believe would
6 be October 16th, 2023, with the proposed restitution order and
7 table of victims. At that point they also should advise
8 whether the restitution figure I have just said should be
9 adjusted.

10 You shall make restitution payments by certified
11 check, bank check, money order, wire transfer, credit card, or
12 cash. The check and money order shall be made payable to SDNY
13 Clerk of Court and mailed or hand-delivered to the U.S. Court
14 House, 500 Pearl Street, New York, New York, attention:
15 Cashier. You shall write your name and docket number of this
16 case on each check or money order. Credit card payments must
17 be made in person at the Clerk's office. Any cash payments to
18 be hand-delivered to the clerk's office with exact change,
19 cannot be mailed. For payments by wire you shall contact the
20 Clerk's office for wire any instructions.

21 The Clerk of the Court will forward any restitution
22 payments made by Mr. Alexandre to the victims. Pursuant to
23 Section 3664(f)(2) of Title 18 in consideration of your
24 financial resources and other assets, including whether any of
25 those assets are jointly owned, the projected earnings and

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1 other income, and any financial obligations you have including
2 obligations to dependents, you shall pay restitution in the
3 manner and according to the following schedule:

4 In the interest of justice, restitution shall be
5 payable in installments pursuant to 18 U.S.C.
6 Section 3572(d)(1) and (2). While serving your term of
7 imprisonment, you shall make installment payments towards your
8 restitution obligation and you may do so to the Bureau of
9 Prisons Inmate Financial Responsibility Plan.

10 Pursuant to Bureau of Prisons policy, the Bureau of
11 Prisons may establish a payment plan by evaluating your
12 six-month deposit history and subtracting any amount determined
13 by the Bureau of Prisons to be used to maintain contact with
14 family and friends. The remaining balance may be used to
15 determine your payment schedule. Bureau of Prisons staff shall
16 help you develop a financial plan and monitor your progress in
17 meeting your restitution obligation. Upon your release from
18 prison, any unpaid restitution will be paid in monthly
19 installments of at least 15 percent of your gross income but
20 not less than \$300 per month and payable on the 7th of the
21 month.

22 I have considered the factors in Section 3664(f)(2) in
23 formulating that payment schedule. You shall notify, within 30
24 days, the Clerk of the Court, U.S. Probation Office during
25 supervised release, and U.S. Attorney's office at 86 Chambers

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1 Street, New York, New York, of any change of your name,
2 residence, or mailing address, and any material change in your
3 financial resources that affect your ability to pay
4 restitution. If you disclose or the government otherwise
5 learns of additional assets not known to the government at the
6 time of my restitution order, the government may seek an order
7 modifying the payment schedule consistent with discovery or
8 additional assets. Your liability to pay restitution shall
9 terminate on the day no later than 20 years from the entry of
10 judgment or 20 years from your release from prison. Subject to
11 those limitations, in the event of your death, your estate will
12 be responsible for any unpaid bail and the restitution amount
13 and any lien filed pursuant to Section 3613(c) shall continue
14 until the estate receives a written release of that liability.

15 You also shall pay interest on any restitution amount
16 of more than 2,500 unless restitution is paid in full before
17 the 15th day after this judgment.

18 In your plea agreement you also admitted the
19 forfeiture allegation in the indictment as to Count One and I
20 entered the content preliminary order of forfeiture. So that
21 the record is clear you are ordered to forfeit to the United
22 States, pursuant to 18 U.S.C. Section 981(a)(1)(C) and 28
23 U.S.C. Section 2461(c), a sum of money equal to \$ -- a sum of
24 money equal to \$248,829,276.73 in U.S. currency which
25 represents the proceeds traceable to the commission of this

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1 offense as well as all right, title, and interest you have in
2 the following specific property:

3 A BMW vehicle with VIN WBAGX0C17NCH48894.

4 A Mercedes Benz GLS 450 vehicle with VIN
5 4JGFF5KE4NA710045.

6 TD Bank accounts held in the name of EminiFX with
7 account numbers ending in 0637, 2914, 2922, 8473, 8598, 8697,
8 and 9920.

9 TD Bank accounts held in the name of the defendant
10 with account numbers ending in 5365 and 2539.

11 Bank of America accounts held in the name of EminiFX
12 with account numbers ending in 3746 and 3742.

13 A Genisys Credit Union account held in the name of the
14 defendant with account number ending in 9223.

15 Interactive Brokers accounts held in the name of the
16 defendant with account numbers ending in 1114 and 1937.

17 Square accounts in the name of EminiFX and/or the
18 defendant with account numbers ending in pyls, pykp, 8y62,
19 3VA3, and CXPF.

20 A Coinbase account held in the name of the defendant
21 with account number ending in -0f09.

22 A Gemini account held in the name of the defendant
23 with account number ending in -2849.

24 I am not going to impose a fine because I find that it
25 would interfere with your ability to pay restitution and

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1 forfeiture. I do impose a mandatory special assessment of \$100
2 which shall be due immediately.

3 Mr. Bove, is there a designation request from the
4 defense?

5 MR. BOVE: Yes, Judge. We would ask for designation
6 as close as possible to the northeast so that Mr. Alexandre can
7 visit his family.

8 THE COURT: I will make that recommendation. Of
9 course, it will be at the determination of the Bureau of
10 Prisons but I will recommend that he be designated to a
11 facility in the northeast as close as possible to the New York
12 City area.

13 Aside from all the issues raised today, does either
14 counsel know of any legal reason why the sentence shall not be
15 imposed, as stated?

16 MR. FOLLY: No, your Honor. No legal reason. We
17 would just note, I believe your Honor in describing the offense
18 conduct at one point, you referenced there being 250,000
19 victims. I understand you meant 25,000 victims, but just for
20 purposes of clarity on the record.

21 THE COURT: Thank you. I very well may have misspoke.
22 If I did, I certainly meant 25,000 and not 250,000. Thank you
23 for pointing that out, Mr. Folly. As discussed throughout
24 today's proceeding, the number of victims was approximately
25 25,000.

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1 And Mr. Bove, other than the issues you have raised
2 already, is there any legal reason why the sentence should not
3 be imposed, as stated?

4 MR. BOVE: No, Judge. Thank you.

5 THE COURT: I order the sentence I have described to
6 be imposed, as stated. I find that the sentence is sufficient
7 but not greater than necessary to satisfy the sentencing
8 purposes of 18 U.S.C. Section 3553(a)(2), including the need to
9 promote respect for the law, provide just punishment for the
10 offense, and to afford adequate deterrence to the defendant and
11 to others, and to protect the public from further crimes of the
12 defendant.

13 There was a second count in the indictment, does the
14 government move to dismiss that count?

15 MR. FOLLY: Yes, your Honor. We so move at this time.

16 THE COURT: I will dismiss any open counts, including
17 but not limited to the second count of the indictment.

18 Have the parties discussed a voluntary surrender date?

19 MR. FOLLY: Your Honor, the government is seeking
20 remand and would ask to be heard at this time.

21 THE COURT: OK. Mr. Bove, are you prepared to address
22 that at this time?

23 MR. BOVE: Yes, your Honor.

24 THE COURT: Mr. Folly.

25 MR. FOLLY: Your Honor, there is two primary reasons

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1 that remand is appropriate here. The first is in light of the
2 substantial sentence that your Honor just imposed of 108
3 months, there is a substantial risk of flight for this
4 defendant.

5 Throughout these proceedings, your Honor, there has
6 been a number of references to the defendant's likely or near
7 certain removal to Haiti, a country he has indicated he clearly
8 does not wish to return to. The defendant, in light of the
9 sentence imposed by your Honor here today, has every incentive
10 to flee at this juncture as opposed to waiting to serve out a
11 sentence -- a substantial sentence of 108 months, and then
12 being removed.

13 Your Honor, in addition to that, the second
14 significant reason that favors remand here, and of course as
15 your Honor knows at this juncture there is a presumption, but
16 the second reason is that the defendant's conduct while on bail
17 in this case, much of which has only surfaced in the last
18 several days, demonstrates his willingness to disregard Court
19 orders and to take actions that are contrary to the law. For
20 example, as your Honor cited during your sentencing remarks,
21 the defendant dissipated \$100,000 in assets of investors. What
22 is particularly troubling about that \$100,000 is that that
23 happened after the defendant made representations at various
24 bail proceedings that there were no assets, that all the assets
25 had been subsumed within the various actions on behalf of the

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1 government, and the CFTC, and we now know that was not true, he
2 did have access to a substantial sum of money, and that's the
3 kind of money that could easily get used to assist the
4 defendant in fleeing.

5 Your Honor, putting those two facts together, there is
6 a significant risk of flight in this case. There is not
7 sufficient evidence that this defendant is not going to flee
8 and for that reason we seek remand.

9 THE COURT: Mr. Bove.

10 MR. BOVE: Judge, this man has no ability to flee. He
11 doesn't have the funds to do it, he doesn't have a passport.
12 It is inconceivable on this record. I said it in my submission
13 and I will say it out loud, the only place on earth that Eddy
14 wants to be is in his home for as long as you let him, until he
15 is designated.

16 I talked to Eddy this morning at about 12:30 a.m. when
17 I saw the government's submission last night, and we talked
18 about what was in it and we talked about the truth and we
19 agreed that we would come here and accept responsibility for
20 that, knowing the consequences that would follow from that
21 acknowledgment.

22 He showed up, Judge. And he will continue to show up
23 as he has throughout this case. He is going to serve his
24 sentence. And we would ask that he be permitted to surrender
25 once he is designated.

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1 THE COURT: Are there additional conditions that you
2 would propose given the additional risk of flight that there is
3 now given that he has been sentenced?

4 MR. BOVE: Whatever the Court thinks is necessary,
5 obviously. What is paramount to him is his ability to spend
6 meaningful time with his family, ideally not under a home
7 incarceration or home detention condition that limits him to
8 his house. Judge, these are his final experiences with these
9 kids. He came here today knowing that. He said good-bye to
10 them when he left. He is going to serve his sentence. He just
11 wants a chance to surrender.

12 THE COURT: Given that there has not been issues
13 brought to my attention during his pretrial release and to the
14 extent that any were raised in the presentence report we
15 addressed them today, and there at least seemed to be a
16 misunderstanding to some extent, I am not going to order
17 Mr. Alexandre remanded today. I will set a voluntary surrender
18 date. With that said, though, if there are any issues during
19 his supervision pending that voluntary surrender date, I would
20 want to know about that immediately.

21 In terms of voluntary surrender date, how much time
22 would the parties propose, Mr. Folly?

23 MR. FOLLY: Your Honor, again, I think considering
24 there is no change in his bail conditions being imposed and the
25 significant risk of flight we just outlined, we would propose

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1 that it is the earliest practicable date.

2 THE COURT: Mr. Bove, 30 days?

3 MR. BOVE: Yes, Judge. Thank you.

4 THE COURT: I will set a voluntary surrender date in
5 30 days. I believe if he is not designated by the Bureau of
6 Prisons to an institution by then he would report to the
7 marshals in this building but I'm not entirely sure as to how
8 that would work. So Mr. Bove, please look into that. 30 days
9 would bring us to August 17th, so why don't we do it that
10 Friday, August 18, 2023.

11 Mr. Alexandre, I also advise you that you have the
12 right to appeal from the judgment imposing a sentence to
13 whatever extent you haven't waived it. If you are unable to
14 pay for the cost of appeal, you may apply for leave to appeal
15 in forma pauperis. If that application were granted, you would
16 be permitted to appeal without payment of fees. Any notice of
17 appeal must be filed within 14 days of the judgment of
18 conviction.

19 I know that this is a long sentence. I do hope when
20 you are released from prison and while you are in prison you
21 are able to live a productive life going forward. It is
22 certainly evident that you have many people who care about you,
23 Mr. Alexandre, very, very much, and I do hope you are able to
24 have a positive impact on society.

25 Please bear in mind that when you are released from

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1 prison, I don't know what is going to happen in terms of your
2 immigration situation, that is something outside of my control,
3 but if you are on supervised release you must take those
4 conditions of supervised release seriously. If you violate
5 supervised release you most likely will be before me again, in
6 which case if there is a violation I may send you back to
7 prison which is certainly not what I would want to happen.

8 Mr. Folly, is there anything further from the
9 government?

10 MR. FOLLY: No, your Honor.

11 THE COURT: Mr. Bove?

12 MR. BOVE: No, Judge. And we appreciate the time.

13 THE COURT: Thank you.

14 I hope everyone has a good evening.

15 o0o